

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ROME DIVISION

FILED IN CLERK'S OFFICE
U.S.D.C. Rome

OCT 29 2009

PERRY BETTS,

Plaintiff,

vs.

SGE MANAGEMENT, LLC, STREAM GAS & ELECTRIC, LTD. SGE ENERGY MANAGEMENT, LTD., STREAM SPE, LTD., STREAM GEORGIA GAS SPE, LLC, SGE TEXAS SERVICECO, LLC, SGE IGNITE GP HOLDING, LLC, SGE TEXAS HOLDING, LLC, SGE NORTH AMERICA SERVICECO, LLC, STREAM SPE GP, LLC, IGNITE HOLDINGS, LTD., ROBERT L. SNYDER, CHRIS DOMHOFF, PIERRE KOSHAKJI, DOUGLAS WITT, STEVE FLORES, MICHAEL TACKER, PAUL THIES, DONNY ANDERSON, BIGBIE ENERGY, LLC, REBECCA BIGBIE, BRYAN N. CHILDERS, TREY DYER, STEVE L. FISHER, THE RANDY HEDGE COMPANIES INC., RANDY HEDGE, CHRIS LAFAYE, MURLLE, LLC, ROBERT L. LEDBETTER, BRIAN LUCIA, THREE P COMMUNICATIONS, INC. (D/B/A "THE MCKINNEY GROUP"), R. DAVID MCKINNEY, ROSE ENERGY GROUP, INC., TIMOTHY W. ROSE, D. REGIS MARKETING, INC., DAVID REGIS, LHS, INC., LOGAN STOUT, PROPERTY LINE MANAGEMENT, LLC, SWAGERTY MANAGEMENT LLC, SWAGERTY ENERGY LTD.,

JAMES N. HARRISON, Clerk
By: _____ Deputy Clerk

Civil Action No. _____

4 09-CV-174 -HLM

Jury Demanded

SWAGERTY ENTERPRISES LP,
SWAGERTY, INC., SWAGERTY
POWER LTD. AND PRESLEY
SWAGERTY,

Defendants.

ORIGINAL CLASS ACTION COMPLAINT

Perry Betts (“Betts”), individually and on behalf of a class of similarly situated individuals, files this complaint against the defendants set out in ¶¶4-78 for damages and other relief under the Racketeer Influenced Corrupt Organizations Act 18 U.S.C. §§ 1961 – 1968 (“RICO”).

1. The defendants violated the RICO Act when they defrauded thousands of individuals by creating, operating and maintaining a business that is an illegal pyramid scheme. Specifically, the defendants sold or promoted the sale of the “Ignite Compensation Plan” (the “Services Program”) for \$329. The Services Program is essentially a license that entitles the purchaser to (a) sell the Services Program to others and (b) sign up others to switch their gas or electricity services to Stream.

2. In operating their illegal business, the defendants falsely represent that their business is legitimate. The defendants go so far as to claim that the Texas

Attorney General has “confirmed the legitimacy” of their business.¹ That is false. As will be shown, the Services Program is a pyramid scheme. This complaint seeks to hold the defendants accountable for their fraud.

1. PARTIES.

1.1 The plaintiff.

3. Perry Betts is a resident of Ringgold, Catoosa County, Georgia. This complaint describes Betts’ participation in ¶¶ 260-264.

1.2 The defendants and a general description of their participation in the pyramid scheme.

1.2.1 “Stream Energy,” defined as those entities in ¶¶4-17 below.

4. SGE Management, LLC is a Texas limited liability company with its principal place of business in Dallas, Dallas County, Texas. SGE Management, LLC may be served through its registered agent, Darrin Pfannenstiel, 1950 N. Stemmons Freeway, Suite 3000, Dallas, Texas 75207. The Chairman of SGE Management, LLC is Robert L. Snyder.

5. SGE Management, LLC is the general partner of Stream Gas & Electric, Ltd., SGE Energy Management, Ltd. and Ignite Holdings, Ltd.

¹ Robert L. Snyder, the head of Stream and Ignite, stated on July 1, 2009, “The fact that the Texas Attorney General’s office has previously confirmed the legitimacy of Stream Energy’s network marketing effort speaks volumes to the veracity of Mr. Clearman’s assertions [in a similar lawsuit filed in Texas].” <http://frontburner.dmagazine.com/2009/07/01/stream-energy-s-rob-snyder-responds-to-lawsuit/> (last viewed on Oct. 9, 2009). Ironically, while Snyder publically makes this representation, Ignite’s materials state “No attorney general or other regulatory authority ever reviews, endorses or approves the products and compensation plans of Ignite or any other company[.]” Ignite’s “*Policies and Procedures*,” “*Things Every Ignite Associate Should Know*.”

6. Stream Gas & Electric, Ltd. is a Texas limited partnership with its principal place of business in Dallas, Dallas County, Texas. Stream Gas & Electric, Ltd. may be served through its registered agent, Darrin Pfannenstiel, 1950 N. Stemmons Freeway, Suite 3000, Dallas, Texas 75207. Stream Gas & Electric, Ltd. does business as "Stream Energy."

7. Stream Gas & Electric, Ltd. owns 99% of Stream SPE, Ltd. as a limited partner. Stream Gas & Electric, Ltd. also owns 100% of Stream Georgia Gas SPE, LLC, the general partner of Stream SPE, Ltd.

8. SGE Energy Management, Ltd. is a Texas limited partnership with its principal place of business in Dallas, Dallas County, Texas. SGE Energy Management, Ltd. may be served through its registered agent, Ray A. Balestri, 2651 N. Harwood, Suite 200, Dallas, Texas 75201.

9. Stream SPE, Ltd. is a Texas limited partnership with its principal place of business in Dallas, Dallas County, Texas. Stream SPE, Ltd. may be served through its registered agent, Darrin Pfannenstiel, 1950 N. Stemmons Freeway, Suite 3000A, Dallas, Texas 75207.

10. Stream Georgia Gas SPE, LLC is a Georgia limited liability company with its principal place of business in Dallas, Dallas County, Texas. Stream Georgia Gas SPE, LLC may be served through its registered agent, National

Registered Agents, Inc., 3675 Crestwood Parkway, Suite 350, Duluth, Georgia 30096. The manager of Stream Georgia Gas SPE, LLC is Robert L. Snyder.

11. SGE Texas Serviceco, LLC is a Texas limited liability company with its principal place of business in Dallas, Dallas County, Texas. SGE Texas Serviceco, LLC may be served through its registered agent, Darrin Pfannenstiel, 1950 N. Stemmons Freeway, Suite 3000T, Dallas, Texas 75207. The manager of SGE Texas Serviceco, LLC is Robert L. Snyder.

12. SGE Ignite GP Holdco, LLC is a Texas limited liability company with its principal place of business in Dallas, Dallas County, Texas. SGE Ignite GP Holdco, LLC may be served through its registered agent, Darrin Pfannenstiel, 1950 N. Stemmons Freeway, Suite 3000D, Dallas, Texas 75207. The manager of SGE Ignite GP Holdco, LLC is Robert L. Snyder.

13. SGE Texas Holdco, LLC is a Texas limited liability company with its principal place of business in Dallas, Dallas County, Texas. SGE Texas Holdco, LLC may be served through its registered agent, Darrin Pfannenstiel, 1950 N. Stemmons Freeway, Ste 3000E, Dallas, Texas 75207. The manager of SGE Texas Holdco, LLC is Robert L. Snyder.

14. SGE North America Serviceco, LLC is a Texas limited liability company with its principal place of business in Dallas, Dallas County, Texas. SGE North America Serviceco, LLC may be served through its registered agent, Darrin

Pfannenstiel, 1950 N. Stemmons Freeway, Ste 3000N, Dallas, Texas 75207. The manager of SGE North America Serviceco, LLC is Robert L. Snyder.

15. Stream SPE GP, LLC is a Texas limited liability company with its principal place of business in Dallas, Dallas County, Texas. Stream SPE GP, LLC may be served through its registered agent, Darrin Pfannenstiel, 1950 N. Stemmons Freeway, Ste 3000H, Dallas, Texas 75207. The manager of Stream SPE GP, LLC is Robert L. Snyder.

16. Stream SPE GP, LLC owns 1% of Stream SPE, Ltd. and is its general partner.

17. In one fashion or the other, Stream earns its income from the sale of gas in Georgia and electricity in Texas. In each state, Stream is a retail energy provider, *i.e.*, it sells but does not create the energy it sells.

1.2.2 “Ignite.”

18. Ignite Holdings, Ltd. is a Texas limited partnership with its principal place of business in Dallas, Dallas County, Texas. Ignite Holdings, Ltd. may be served through its registered agent, Darrin Pfannenstiel, 1950 N. Stemmons Freeway, Ste 3000C, Dallas, Texas 75207.

19. Ignite Holdings, Ltd. does business as “Ignite” and “Ignite Powered by Stream Energy.” Stream calls Ignite its marketing arm. Ignite earns its income from the sale of its Services Program.

1.2.3 "Snyder."

20. Robert L. Snyder may be served at his place of business, 1950 N. Stemmons Freeway, Suite 3000, Dallas, Dallas County, Texas 75207.

21. Snyder is a co-founder and partial owner of SGE Management, LLC and all of the entities in which it maintains an ownership interest. Snyder is the head of SGE Management, LLC and all of the entities in which it maintains an ownership interest. Snyder earns his income from Stream and Ignite.

1.2.4 "Domhoff."

22. Chris Domhoff may be served at his place of business, 1950 N. Stemmons Freeway, Suite 3000, Dallas, Dallas County, Texas 75207.

23. Domhoff is a co-founder and partial owner of SGE Management, LLC and all of the entities in which SGE Management, LLC maintains an ownership interest. Domhoff is a founder of Ignite Holdings, Ltd. He oversees SGE Management, LLC's marketing functions. Together with Douglas Witt, he is the co-architect of the Ignite Compensation Plan (i.e., the Services Program) and its training program. Domhoff earns his income from Stream and Ignite.

24. Prior to Domhoff's involvement with Stream and Ignite, he was the Vice President of Global MLM Marketing for Excel Telecommunications, an international direct seller of telecommunications. During his six-year tenure at Excel, Domhoff was responsible for the strategic development of marketing,

training, recruiting and communications functions for the company. As will be shown, Domhoff used his Excel channels to recruit participants in Ignite.

1.2.5 “Koshakji.”

25. Pierre Koshakji may be served at his place of business, 1950 N. Stemmons Freeway, Suite 3000, Dallas, Dallas County, Texas 75207.

26. Pierre Koshakji is a co-founder and partial owner of SGE Management, LLC and all of the entities in which it maintains an ownership interest. Koshakji has been directly responsible for all areas of operations support, payment systems, human resources and firm administration for SGE Management, LLC. Koshakji had secondary responsibility for SGE Management, LLC's finances, fundraising, legal matters and regulatory affairs. Koshakji earns his income from Stream and Ignite.

1.2.6 “Witt.”

27. Douglas Witt may be served at his place of business, 1950 N. Stemmons Freeway, Suite 3000, Dallas, Dallas County, Texas 75207.

28. Witt is Stream Gas & Electric, Ltd.'s senior Director of Marketing Operations. Witt had responsibility for the oversight of all Ignite operational and field activities (including recruiting, training and events, field leadership and the development and implementation of corporate presentations, marketing materials and management tools). Together with Domhoff, he is also a co-architect of

Ignite's compensation and training program. Witt earns his income from Stream and Ignite.

29. Witt was an independent marketing director with Excel Communications, Inc. for nearly a decade. Due to his prowess as a sales organization leader in Excel, Witt consistently ranked in the top ten percent of the company's money earners and was appointed by the company's founder to develop and lead Excel's national field leadership team. In this role, Witt conceptualized and wrote field training manuals and videos, planned and coordinated quarterly training/team-building conferences with corporate staff, and trained in excess of 10,000 field representatives at corporate events, leadership conferences and weekly training meetings nationwide.

1.2.7 "Flores."

30. Steve Flores may be served at his place of business, 1950 N. Stemmons Freeway, Suite 3000, Dallas, Dallas County, Texas 75207.

31. Flores is Stream Gas & Electric, Ltd.'s Senior Director - Associate Support & Facilities Planning. Flores provided overall strategic and day-to-day oversight for all aspects of Ignite's Directors support operations (including policies, procedures and administrative systems to support Ignite business activity and organizational goals). Flores earns his income from Stream and Ignite.

1.2.8 “Tacker.”

32. Michael Tacker may be served at his place of business, 1950 N. Stemmons Freeway, Suite 3000, Dallas, Dallas County, Texas 75207.

33. Tacker has been Stream Gas & Electric, Ltd.’s Director of Field Development. In that position, Tacker had responsibility for directing the firm’s entry strategies into new markets with a primary focus on expanding markets for the Ignite organization. In his role he has acted as an "in the field" mentoring coach to help Ignite Directors sell the Services Program. Tacker earns his income from Stream and Ignite.

1.2.9 “Thies.”

34. Paul Thies may be served at his place of business, 1950 N. Stemmons Freeway, Suite 3000, Dallas, Dallas County, Texas 75207.

35. Thies is responsible for supporting Ignite’s sales force and dealing with communications from the corporate office of Stream Energy. Thies earns his income from Stream and Ignite.

1.2.10“Anderson.”

36. Donny Anderson may be served at his place of business, 1950 N. Stemmons Freeway, Suite 3000, Dallas, Dallas County, Texas 75207.

37. Anderson is a “Presidential Director” of Ignite. He was one of the first individuals to sell the Services Program. Anderson earns his income from his

and his downline's sale of the Services Program to new investors. He also earns a commission from his and his downline's enrollment of new customers to Stream.

1.2.11 "Bigbie."

38. Bigbie Energy, LLC is a Texas limited liability company with its principal place of business in Dallas, Dallas County, Texas. Bigbie Energy, LLC may be served through its registered agent, Rebecca Bigbie, 929 Excalibur Drive, Highland Village, Texas 75077.

39. Rebecca Bigbie may be served at her place of business, 929 Excalibur Drive, Highland Village, Texas 75077.

40. Rebecca Bigbie is an "Executive Director" of Ignite. Bigbie Energy, LLC and Rebecca Bigbie jointly perform tasks in furtherance of the pyramid scheme alleged below and will be jointly called "Bigbie." Bigbie earns her income from her and her downline's sale of the Services Program to new investors. She also earns a commission from her and her downline's enrollment of new customers to Stream.

1.2.12 "Childers."

41. Bryan N. Childers may be served at his home, 102 Holly Lakes Drive, Dublin, Laurers County, Georgia 31021.

42. Childers is an "Executive Director" of Ignite. He is instrumental in selling the Services Program in Georgia and Texas. Childers earns his income

from his and his downline's sale of the Services Program to new investors. He also earns a commission from his and his downline's enrollment of new customers to Stream.

1.2.13 "Dyer."

43. Trey Dyer may be served at his place of business, 1950 N. Stemmons Freeway, Suite 3000, Dallas, Dallas County, Texas 75207.

44. Dyer is an Executive Director of Ignite. He is also employed by SGE Management, LLC or one of its subsidiaries as Director of Operations. It is alleged that SGE Management, LLC made him a Senior and then an Executive Director to give him credibility in his sales of the Services Program. Dyer earns his income from his and his downline's sale of the Services Program to new investors. He also earns a commission from his and his downline's enrollment of new customers to Stream.

1.2.14 "Fisher."

45. Steve L. Fisher may be served at his residence, 4711 Cranbrook Drive E., Colleyville, Tarrant County, Texas 76034.

46. Fisher is a "Presidential Director" of Ignite. Fisher is a professional salesperson. It is alleged and believed that he is an owner of or employed by SGE Management, LLC or one of its subsidiaries as Director of Operations. It is alleged that SGE Management, LLC first placed him in Ignite as an Executive and

then as a Presidential Director to give him credibility in his sales of the Services Program. Fisher earns his income from his and his downline's sale of the Services Program to new investors. He also earns a commission from his and his downline's enrollment of new customers to Stream.

1.2.15 "Hedge," a/k/a the "Cowboy."

47. The Randy Hedge Companies Inc. is an Arkansas corporation with its principal place of business in Texas, Arkansas or Georgia. The Randy Hedge Companies Inc. may be served through its registered agent, Randy Hedge, 536 DeQueen Lake Road, Sevier County, DeQueen Arkansas 71832. The Randy Hedge Companies, Inc. was created on August 1, 2006 while Randy Hedge was in a Chapter 7 bankruptcy that proceeded from October 12, 2005 to July 28, 2008.

48. Randy Hedge may be served at his residence, 536 DeQueen Lake Rd., DeQueen, Sevier County, Arkansas 71832.

49. Randy Hedge is a "Presidential Director" of Ignite. He was one of the first individuals to sell the Services Program. The Randy Hedge Companies Inc. and Randy Hedge jointly perform tasks in furtherance of the pyramid scheme alleged below and will be jointly called either "Hedge" or the "Cowboy."

50. Hedge is a professional salesperson with a history of selling multilevel marketing businesses. Hedge never discloses this when recruiting new investors to Ignite. Instead, he plays the role of the "Cowboy," a simple man who first

participated in a multilevel marketing business when he joined Ignite. However, prior to working with Ignite, he marketed Excel Communications. In 2003, he was a top leader in Excel's sales force. After Excel went into bankruptcy, Domhoff hired Hedge to work for Ignite as a professional sales person. Hedge earns his income from his and his downline's sale of the Services Program to new investors. He also earns a commission from his and his downline's enrollment of new customers to Stream.

1.2.16 “LaFaive.”

51. Chris LaFaive may be served at his residence, 1600 Kennesaw Due West Road NW, Kennesaw, Cobb County, Georgia 30152-4340.

52. LaFaive is an “Executive Director” of Ignite. He is instrumental in selling the Services Program in Georgia and Texas. LaFaive earns his income from his and his downline's sale of the Services Program to new investors. He also earns a commission from his and his downline's enrollment of new customers to Stream.

1.2.17“Ledbetter.”

53. Murlle, LLC is a Texas limited liability corporation with its principal place of business in Denton County, Texas. Murlle, LLC may be served through its registered agent, Sue A. Murray, 900 Mallard Way, Flower Mound, Denton County, Texas 75028.

54. Robert L. Ledbetter may be served at his residence, 900 Mallard Way, Flower Mound, Denton County, Texas 75028,

55. Robert L. Ledbetter is a “Presidential Director” of Ignite. He was one of the first individuals to sell the Services Program. Murlle, LLC and Robert L. Ledbetter jointly perform tasks in furtherance of the pyramid scheme alleged below and will be jointly called either “Ledbetter.” Ledbetter earns his income from his and his downline’s sale of the Services Program to new investors. He also earns a commission from his and his downline’s enrollment of new customers to Stream.

1.2.18 “Lucia.”

56. Brian Lucia may be served at his residence, 3409 Provine Rd., McKinney, Collin County, Texas 75070.

57. Lucia is an “Executive Director” of Ignite. He is also employed by SGE Management, LLC or its subsidiaries as Director of Operations. It is alleged that SGE Management, LLC first placed him in Ignite as a Senior Director and then as an Executive Director to give him credibility in his sales of the Services Program. Lucia earns his income from his and his downline’s sale of the Services Program to new investors. He also earns a commission from his and his downline’s enrollment of new customers to Stream. Alternatively, he earned his income from his employment with Stream, Ignite or both.

1.2.19“McKinney”

58. Three P Communications, Inc. (d/b/a “The McKinney Group”) is a Texas corporation with its principal place of business in Collin or Denton County, Texas. Three P Communications, Inc. may be served through its registered agent, R. David McKinney, 25 Fairway Drive, Denton County, Frisco, Texas 75034.

59. R. David McKinney may be served at his place of business, 25 Fairway Drive, Denton County, Frisco, Texas 75034.

60. R. David McKinney is an “Executive Director” of Ignite. Three P Communications, Inc. and R. David McKinney jointly perform tasks in furtherance of the pyramid scheme alleged below and will be jointly called “McKinney.” McKinney earns his income from his and his downline’s sale of the Services Program to new investors. He also earns a commission from his and his downline’s enrollment of new customers to Stream.

1.2.20“Rose.”

61. Rose Energy Group, Inc. is a Texas corporation with its principal place of business in Smith County, Texas. Rose Energy Group, Inc. may be served through its registered agent, Timothy W. Rose, 13604 CR 2216, Smith County, Tyler, Texas 75707.

62. Timothy W. Rose may be served at his place of business, 13604 CR 2216, Smith County, Tyler, Texas 75707.

63. Timothy W. Rose is a “Presidential Director” of Ignite. The Rose Energy Group, Inc. and Timothy W. Rose jointly perform tasks in furtherance of the pyramid scheme alleged below and will be jointly called “Rose.” Rose earns his income from his and his downline’s sale of the Services Program to new investors. He also earns a commission from his and his downline’s enrollment of new customers to Stream.

1.2.21 “Regis.”

64. D. Regis Marketing, Inc. is a Texas corporation with its principal place of business in Tarrant County, Texas. D. Regis Marketing, Inc. may be served through its registered agent, David Regis, 2206 Adams Court, Tarrant County, Arlington, Texas 76011.

65. David Regis may be served at 2206 Adams Court, Tarrant County, Arlington, Texas 76011.

66. David Regis is an “Executive Director” of Ignite. David Regis and D. Regis Marketing, Inc. jointly perform tasks in furtherance of the pyramid scheme alleged below and will be jointly called “Regis.” Regis earns his income from his and his downline’s sale of the Services Program to new investors. He also earns a commission from his and his downline’s enrollment of new customers to Stream.

1.2.22“Stout.”

67. LHS, Inc. is a Texas corporation with its principal place of business in Texas. LHS, Inc. may be served through its registered agent, Logan Stout, 1803 Park Meadow Lane, Dallas County, Richardson, Texas 75081.

68. Logan Stout may be served at his residence, 1803 Park Meadow Lane, Dallas County, Richardson, Texas 75081.

69. Logan Stout is a “Presidential Director” of Ignite. LHS, Inc. and Logan Stout jointly perform tasks in furtherance of the pyramid scheme alleged below and will be jointly called “Stout.” Stout earns his income from his and his downline’s sale of the Services Program to new investors. He also earns a commission from his and his downline’s enrollment of new customers to Stream.

1.2.23“Swagerty,” aka the ”Coach.”

70. Property Line Management, LLC is a Texas limited liability company with its principal place of business in Sachse, Texas. Property Line Management, LLC may be served through its registered agent, David Flynn, 1417 Fourth Street, Young County, Graham, Texas 76048. Presley Swagerty is the manager and director of Property Line Management, LLC.

71. Swagerty Management, LLC is a Texas limited liability company with its principal place of business in Sachse, Texas. Swagerty Management, LLC may be served through its registered agent, David Flynn, 1417 Fourth Street, Young

County, Graham, Texas 76048. Presley Swagerty is the president of Swagerty Management, LLC.

72. Swagerty Energy, Ltd. is a Texas limited partnership with its principal place of business in Sachse, Texas. Swagerty Energy, Ltd. may be served though its registered agent, David Flynn, 1417 Fourth Street, Young County, Graham, Texas 76048. Swagerty, Inc. is the general partner for Swagerty Energy, Ltd.

73. Swagerty Enterprises, LP is a Texas limited partnership with its principal place of business in Sachse, Texas. Swagerty Enterprises, LP may be served though its registered agent, David Flynn, 1417 Fourth Street, Young County, Graham, Texas 76048. Swagerty Management, LLC is the general partner of Swagerty Enterprises, LP.

74. Swagerty, Inc. is a Texas corporation with its principal place of business in Sachse, Texas. Swagerty, Inc. may be served though its registered agent, David Flynn, 1417 Fourth Street, Young County, Graham, Texas 76048. Presley and Jennie Swagerty are the Directors of Swagerty, Inc.

75. Swagerty Power, Ltd. is a Texas limited partnership with its principal place of business in Sachse, Texas. Swagerty Power, Ltd. may be served though its registered agent, David Flynn, 1417 Fourth Street, Young County, Graham, Texas 76048. Swagerty Inc. is Swagerty Power, Ltd.'s general partner.

76. Presley Swagerty may be served at his residence, 3410 Merritt Rd., Sachse, Dallas County, Texas 75048.

77. Presley Swagerty is a "Presidential Director" of Ignite. Property Line Management, LLC, Swagerty Management, LLC, Swagerty Energy, Ltd., Swagerty Enterprises, LP, Swagerty, Inc., Swagerty Power, Ltd. and Presley Swagerty jointly perform tasks in furtherance of the pyramid scheme alleged below and will collectively be called "Swagerty" or the "Coach."

78. Like Hedge, Swagerty is a professional salesperson with a history of selling multilevel marketing businesses. Swagerty never discloses this when recruiting new investors into Ignite. Instead, he plays the role of the "Coach," a simple man who first participated in a multilevel marketing business when he joined Ignite. However, prior to working with Ignite, he marketed Excel Communications. In 2003, he was a top leader in Excel's sales force. After Excel went into bankruptcy, Domhoff hired Swagerty to work for Ignite as a professional sales person. Swagerty earns his income from his and his downline's sale of the Services Program to new investors. He also earns a commission from his and his downline's enrollment of new customers to Stream.

2. JURISDICTION AND VENUE.

79. The defendants are subject to the jurisdiction of this Court. The defendants have continuously and systematically engaged in business in Georgia.

Some of the defendants have designated agents for service of process in Georgia and have committed fraudulent acts in Georgia. The individual defendants also have committed fraudulent acts in Georgia. In accordance with 18 U.S.C. § 1965(a) and (b), the defendants are subject to this Court's jurisdiction in that they "transact affairs" in the Northern District of Georgia, and "the ends of justice require that other parties residing in any other district be brought before the Court, the Court may cause such parties to be summoned, and process for the purpose may be served in any judicial district of the United States by the marshal thereof." 18 U.S.C. § 1965(a), (b) and (c). The Court also has jurisdiction over this action under 28 U.S.C. § 1331 as it presents one or more federal questions and 28 U.S.C. § 1337 because it concerns the regulation of commerce.

80. Venue is proper in this District and this Court has personal jurisdiction over the defendants pursuant to 18 U.S.C. § 1965(a) and 28 U.S.C. § 1391(b) as the defendants are citizens of, residents of, are found within, have agents within, are doing business in, and/or transact their affairs in this District, and the activities of the defendants which give rise to the claims for relief occurred in this District. Betts is a resident of this District.

3. ADDITIONAL DEFINITIONS.

81. “Operators” means the individual defendants who own, are employed by or are paid agents of Stream, Ignite or both, including the following:

- a. Domhoff;
- b. Snyder;
- c. Koshakji;
- d. Witt;
- e. Flores;
- f. Tacker;
- g. Thies;
- h. Dyer; and
- i. Lucia.

82. “Presidential Directors” means those individuals that initially invested in Ignite’s Services Program. Presidential Directors are at the very top of the Ignite pyramid scheme. There are approximately twelve Presidential Directors out of 110,000 Directors in the pyramid. That means that each Presidential Director, on average, has 9177 Directors in his “downline,” *i.e.*, individuals that joined the Ignite pyramid below him. The Presidential Directors are the top .01% of the Ignite pyramid.

83. “Presidential Directors” are the following Presidential Directors that are named as defendants in this action:

- a. Anderson;
- b. Fisher;
- c. Hedge;
- d. Ledbetter;
- e. Rose;
- f. Stout; and
- g. Swagerty.

84. “Executive Directors” mean those individuals that are at the second highest level of the Ignite pyramid. There are fifty Executive Directors out of 110,000 Directors in the Ignite pyramid. That means that each Executive Director, on average, has 2200 Directors in his downline. The Executive Directors are the top .05% of the Ignite pyramid.

85. “Executive Directors” are the following Executive Directors that are named as defendants in this action:

- a. Bigbie;
- b. Childers;
- c. Dyer;
- d. LaFaive;
- e. Lucia;
- f. McKinney; and
- g. Regis.

Dyer and Lucia are also employed by Stream, Ignite or both and thus are also “Operators” as defined above.

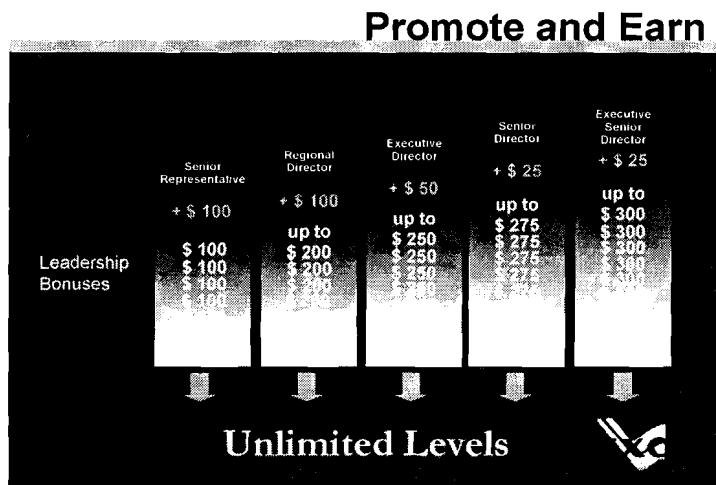
4. BACKGROUND ON SEVERAL OF THE DEFENDANTS’ PARTICIPATION IN EXCEL COMMUNICATIONS, INC.

86. Before explaining the defendants’ pyramid scheme, it is helpful to understand when and how some of the defendants first participated in another multilevel marketing program, Excel Communications, Inc. (“Excel”). As stated above, Domhoff and Witt were instrumental in the marketing of Excel, a multilevel marketing program for phone services. When creating the Ignite Services Program, Snyder hired Domhoff and Witt to replicate Excel’s marketing program.

87. Under the Excel compensation program, an individual first paid a fee to become an Excel representative. In return for an individual’s payment of the fee of between \$299 and \$398, the representative earned the right to sign up others as Excel representatives.

88. Excel promised “immediate income” and “long-term residual income,” with “unlimited income potential.” Excel paid its representatives \$1,200 when they signed up three other persons to become Excel Managing Representatives and each of those representatives signed up eight phone customers. The Excel representatives also received a commission from those in their “downline.” Excel had five levels of representatives: Senior Representative, Regional Director, Executive Director, Senior Director and Executive Senior

Director. A person started as an Senior Representative and moved up the organization by getting others to become Excel representatives. Excel represented, its “serious income potential” and that this income could be earned to “unlimited levels.”



89. Swagerty and Hedge were Excel Senior Directors from at least December of 1998 until Excel’s bankruptcy in 2004.² They were chiefly responsible for promoting Excel through their speeches. In their speeches, they explained how they, by investing in Excel, made a large amount of money. For example, Swagerty explained that he was a high school coach who left his teaching job to pursue his Excel business exclusively. Consider Swagerty’s “testimonial” published by Excel:

² See <http://www.excelwithus.com/BoEN/pro/xl66.htm> (Hedge involved prior to November 13, 1998) (last viewed on Oct. 27, 2009) & <http://www.excelwithus.com/BoEN/pro/xl69.htm> (Swagerty involved prior to December 19, 1998) (last viewed on Oct. 27, 2009).

Presley had already been working Excel part time for over a year when he finally left coaching. He told his wife, Jeanie, "I love coaching, but when your part-time Excel business pays more than your full-time job, it's time to focus your energies on Excel."

You might say that Presley never really left the coaching profession, but merely switched arenas. His experience on the court translated directly into success with Excel. Using the mentoring habits he'd already mastered, Presley incorporated emotional balance, one-on-one training and special player recognition into his overall business game plan. No wonder the attendees at his local Team Excel meetings have long referred to him as "Coach Swagerty."

As he presently restricts his competitive skills to the business arena, Presley now attends sporting events only as a spectator. Yet the memories of those endless nights of standing courtside, including that one game in particular, still serve as powerful reminders. Presley emphasizes to prospects that his old team may have missed the championship by one shot, but that no one need miss the shot in changing his or her life with Excel.³

90. Excel used Swagerty to draw investors to purchase the right to be an Excel representative. Here is an example of a Swagerty presentation on behalf of Excel:

"People are looking to make more money and change their lives," Swagerty says - and the 200 people gathered in the suburban Dallas hotel on a Tuesday evening fit the bill.

Swagerty, wearing a wireless microphone as he walks around the stage, has just the answer for them - a "tremendous financial opportunity" that allowed him to quit his job, become his own boss, work fewer hours and spend more time with his family. He now has a retirement nest egg and can finance his kids' college education.

³ See http://users.myexcel.com/focusu/written_testimonials.htm (last viewed on Oct. 12, 2009).

"I'm nothing special - anybody in this room can do what I did," the plain-talking Texan says to a burst of applause.

All they have to do is join Excel Communications Inc., an unorthodox company that sells long-distance service the way Amway peddles household products - through independent representatives who sign up customers - and recruit as many other reps as they can - from among friends and family.

As Swagerty extols Excel's virtues, a world map showing a Montreal company's telecommunications network suddenly flashes on a screen behind him.

The pumped-up audience hoots and hollers. Some jump to their feet, as Swagerty points at Teleglobe Inc.'s impressive jumble of satellites, earth stations and under-sea cables, a network that reaches 240 countries.

Now that Excel has merged with Teleglobe, Swagerty says, the possibilities are limitless. Excel's 300,000-strong army of reps can now target Germany, Britain, France, Japan and Italy.

91. Excel also employed Hedge to persuade individuals to pay the required fee and become an Excel representative:

To really get a sense of life in the Hedge family, you first need to travel to their hometown of DeQueen, Arkansas. Nestled about an hour northwest of Texarkana, DeQueen (population 5,000) is tucked away from the encroachments of the city and life here has a mild pace. In a community this size, you may think it is near-impossible to build a top money earner Excel business. That is, until you meet Randy Hedge.

Prior to Excel, Randy was the owner and operator of two insurance agencies. But, according to Randy, while he found financial comfort, "I didn't have the quality of life I wanted. I didn't feel like I had enough time for my family." He had been aware of the Excel Opportunity for some time before making the decision to join, and

when he was ready, he aggressively sought out the person who eventually sponsored him.

"It was a little hard at first," admits Randy. "People that I loved, admired and respected thought I had lost my mind. But I was committed to doing it." Because of his dedication, Randy began quickly proving to everyone that his decision was the right one — after four months with Excel, he was able to retire one of his insurance agencies.⁴

92. Hedge was not as successful as he said. In 2005, he filed for bankruptcy.

93. On March 24, 1997, *Forbes* reported that Excel was nothing more than a pyramid scheme. Indeed, Excel could not exist without the money it received from persons who purchased the right to be an Excel representative.⁵ As *Forbes* stated, "In the manner of a chain-letter scheme, the pyramid relies on a stream of new recruits for its prosperity. The company netted a fat \$144 million on revenue of \$1.4 billion last year. Minus the \$195 recruiting fees, though, Excel would have been in the red." Essentially, other than through its recruiting fee, Excel was an unprofitable business. Excel went into bankruptcy on November 1, 2004.

5. THE IGNITE SERVICES PROGRAM IS A PYRAMID SCHEME PATTERNED AFTER EXCEL.

5.1 The Ignite Services Program's compensation structure.

⁴ http://web.archive.org/web/20020603085318/www.excel.com/us/excel_opp_testimonials2.asp (last viewed on Oct. 12, 2009).

⁵ <http://www.forbes.com/forbes/1997/0324/5906063a.html> (last viewed on Oct. 12, 2009).

94. Stream and Ignite's pyramid scheme started in Texas and has now expanded to Georgia. Thus, the discussion of what has occurred in Texas is necessary to understand what is and will be happening in Georgia.

95. When Texas deregulated electricity, Snyder decided to start an energy company, Stream. He understood that under deregulation, there would be strenuous competition for customers and that the profit margin available to Stream would be slight. So Snyder decided to take an alternative path: make money not from electricity, but from the revenues that Ignite would earn by creating a pyramid scheme similar to Excel. To accomplish his goals, Snyder hired Domhoff and Witt, the architects of the Excel compensation program. In turn, Domhoff and Witt created the Ignite Services Program, a near perfect replica of the Excel compensation program. It is so similar, that even the very words the defendants use with respect to Ignite are the same as those used by Excel. At like Excel, Ignite makes money while Stream does not.

96. The defendants describe Ignite as Stream's multilevel marketing program. Ignite provides Stream with a sales force. Ignite sells investors its "Services Program." A person who invests in Ignite's Services Program becomes a member of Ignite's sales force. Ignite compensates investors for each person he recruits that invests in the Services Program. Ignite pays each member, not only for the members they recruit into the sales force, but also for the recruits of those

recruits, *etc.*, creating a downline and a hierarchy of multiple levels of compensation. Separately, Stream compensates Ignite's investors by paying commissions based upon their and their downline's sales of Stream electricity and gas. The sales force markets the Services Program and Stream's gas or electricity through relationship referrals and word of mouth marketing.

97. At the bottom level of the Ignite's pyramid are "Associates" or "Directors." For convenience, both will be called "Directors." A person becomes a "Director" when a current member of the pyramid, a "Sponsor," recruits him and he invests \$329 in the pyramid by purchasing the Services Program. Joining the pyramid and purchasing the Services Program entitles the newly minted Director to (a) sign up recruits who will also pay \$329 to purchase the Services Program and join the pyramid and (b) sign up customers to use Stream electricity or gas.

98. The way recruits join the pyramid is by logging into their Sponsor's "Ignite Homesite" and paying \$329 for the Services Program. Ignites also encourages Directors to switch to Stream as their electricity or gas provider, or both. Ignite also essentially requires each new Director to make a further investment of \$24.95 a month for their own "Ignite Homesite." As Ignite states, "it's hard to imagine running a successful business without" also purchasing and maintaining an Ignite Homesite. Swagerty, while mentioning that the company

says Ignite Homesite is optional, states, “it ain’t. To do this business, you need that webpage.”⁶

99. Ignite has five levels of Directors.⁷ If the Director enrolls four customers within thirty days of his investment in the Services Program, Ignite will pay him a \$100 “bonus.” Alternatively, the Director can obtain credit for two electricity or gas customers by purchasing an Ignite Homesite. Ignite also encourages the Director to be his own customer, *i.e.*, switch to Stream as his gas or electric provider, or both. Thus, to earn the first \$100 bonus, the Director needs only one retail customer and himself, so long as he purchases the Ignite Homesite.

100. Then, if the Director enrolls six additional customers, for a total of ten, within sixty days of his investment in the Services Program, Ignite will pay him a second \$100 “bonus.”

101. If the Director sells the Services Program investment to a new recruit and that recruit enrolls four customers in his first thirty days, Ignite will pay a third \$100 “bonus.” If the Director sells the Services Program investment to two additional recruits and those recruits each enroll four customers in their first thirty days, Ignite will pay that Director two more \$100 “bonuses.” Ignite calls this completing the “3 and 10,” three new recruits that purchased the Services Program

⁶ <http://www.youtube.com/watch?v=4LRijOmy3tM> (last viewed on Oct. 13, 2009).

⁷ This is patterned on Excel’s five levels, *see ¶87*

and ten new customers (or seven if the Director purchased the Ignite Homesite and enrolls himself as a customer of Stream Energy).⁸ Upon completion of the “3 and 10,” Ignite has, in total, paid the Director \$500 in “Immediate Income.” Ignite states that by “complet[ing] your 3 and 10 [you] set in motion a cycle of duplication that will fuel the growth of your Ignite business.” By completing the “3 and 10,” a Director becomes a “Qualified Director,” the second level from the bottom of the pyramid.

102. The third level from the bottom of the pyramid is the “Managing Director.” To become a Managing Director, a Director must have twelve Directors in his “downline,” *i.e.*, individuals that joined the pyramid under him. Ignite pays each Managing Director \$175 for each Director he personally sponsors. Ignite also pays each Managing Director an additional \$75 for each Director below his first downline level, provided each Director enrolls at least one customer within that Director’s first thirty days.

103. The fourth level from the bottom of the pyramid is the “Senior Director.” To become a Senior Director, a Managing Director must enroll five new individuals as customers of Stream, sponsor three additional Directors and have two Managing Directors in his downline network. Ignite pays each Senior

⁸ This is patterned on Excel’s “3 and 8,” *see ¶88.*

Director \$275.00 for each Director he personally sponsors. Ignite also pays each Senior Director an additional \$175.00 for each Director in his downline network.

104. The fifth level from the bottom of the pyramid is the “Executive Director.” To become an Executive Director, a Senior Director must enroll five new individuals as customers of Stream and have two Senior Directors in his downline network. Ignite pays each Executive Director \$325 for each new Director he personally sponsors. Ignite also pays each Executive Director an additional \$225.00 for each Director in his downline network.

105. The sixth level from the bottom of the pyramid is the “Presidential Director.” Ignite does not disclose what it takes to be a Presidential Director or the compensation that a Presidential Director receives.

106. The defendants represent that from the Managing Director level up, “leadership income [is] paid on every [Director] on every level to unlimited depth. That’s geometric growth to infinity.”

5.2 The Services Program is an illegal pyramid scheme.

107. Each defendant promotes Stream, Ignite and their pyramid scheme. The defendants induce new recruits to invest in the Services Program through materially false representations about Ignite’s pyramid. Generally, the defendants falsely represent the pyramid’s operations and the potential compensation an investor in the Services Program can receive. However, as false as any

independent statement made by the defendants may be (such as the Texas Attorney General has approved the Ignite pyramid), that is not the essence of this case. Rather, it is that the defendants' pyramid scheme is inherently illegal. Any statement made by the defendants that supports the pyramid scheme is by its very nature made in furtherance of a scheme and artifice to defraud individuals that purchase the Services Program.

108. The first reason that the defendants' business is a pyramid scheme is because Ignite pays a Qualified Director a bonus of between \$75 and \$325 each time he or his downtime sells the Services Program to a recruit who becomes a Qualified Director. This headhunting fee meets "the second element of the *Koscot* test . . . [and] is the *sine qua non* of a pyramid scheme."⁹ Moreover, unlike Amway's anti-pyramid rules, Ignite does not "buy back" the Services Program unless the person requests a buy back of the Services Program within three days of his investment. In sum, Ignite, is a textbook example of a pyramid scheme.

109. The second reason that the defendants' business is a pyramid scheme is because Stream pays its Directors income from non-retail sales, *i.e.*, sales to individuals who are themselves Directors. To avoid being a pyramid scheme, the compensation a participant in a multilevel marketing program receives must be a "payment based on actually consummated sales of goods or services to persons

⁹ *Webster v. Omnitrition Int'l. Inc.*, 79 F.3d 776, 782 (9th Cir. 1996).

who are not participants in the plan.”¹⁰ Here, as much as one-third of the compensation a Director receives comes from energy sales to other Directors. In fact, it is possible for a Director to earn all of their income from energy sales from only Directors.

110. Pyramid schemes are inherently illegal. In a pyramid scheme, the perpetrators typically induce others to join the by promising large profits and rewards from an alleged business. All pyramid schemes must eventually collapse.¹¹

111. Pyramid schemes are “[s]uch contrivances ... characterized by the payment by participants of money to the company in return for which they receive (1) the right to sell a product and (2) the right to receive in return for recruiting other participants into the program rewards which are unrelated to sale of the product to ultimate users.”¹²

112. “As is apparent, the presence of this second element, recruitment with rewards unrelated to product sales, is nothing more than an elaborate chain letter device in which individuals who pay a valuable consideration with the expectation

¹⁰ *In re Koscot Interplanetary, Inc.*, 86 F.T.C. 1106, 1181 (1975), *aff'd mem. sub nom., Turner v. F.T.C.*, 580 F.2d 701 (D.C. Cir. 1978) (emphasis supplied).

¹¹ *Omnitrition Int'l. Inc.*, 79 F.3d at 781 (9th Cir. 1996) (citing *S.E.C. v. Int'l. Loan Network, Inc.*, 968 F.2d 1304, 1309 (D.C. Cir. 1992)).

¹² *Id.*

of recouping it to some degree via recruitment are bound to be disappointed.”¹³

Federal courts have expressly recognized that “the operation of a pyramid scheme constitutes fraud for purposes of several federal antifraud statutes.”¹⁴ “Like chain letters, pyramid schemes may make money for those at the top of the chain or pyramid, but ‘must end up disappointing those at the bottom who can find no recruits.’”¹⁵ Accordingly, “[p]yramid schemes are said to be inherently fraudulent

....”¹⁶

113. The Federal Trade Commission has found pyramid schemes to entail “operating an unfair and deceptive multilevel marketing plan under which persons were lured into purchasing distributorships by the promise of large financial rewards, when in fact such rewards depended on a ‘virtually, endless recruiting of participants into the scheme’ and were ‘necessarily predicated on the exploitation of others who [had] virtually no chance of receiving a return on their investment.’”¹⁷

¹³ *Id.* at 782.

¹⁴ *Id.*

¹⁵ *Id.* at 781 (quoting *In re Koscot*, 86 F.T.C. at 1181).

¹⁶ *Id.* As the Fifth Circuit explained in *Piambino v. Bailey*, 610 F.2d 1306, 1318 n. 9 (5th Cir.1980): if the founder recruited five distributors in the first month and if those five each recruited five more distributors in month two, and if each of these subsequent recruits enticed five people to join in the month following his own recruitment, over 244 million new distributors would be recruited in the twelfth month. Obviously, this would be impossible in a nation of only 220 million people.

¹⁷ *Piambino v. Bailey*, 757 F.2d 1112, 1125 (11th Cir. 1985).

6. MOST PERSONS DRAWN INTO THE IGNITE PYRAMID HAVE LOST OR WILL LOSE THEIR INVESTMENT.

6.1 The pyramid offers promises of great wealth to those who buy the Services Program.

114. The Stream, Ignite, the Operators and Executive and Presidential Directors arrange and pay for a variety of meetings, called, among other things, “Power Surge,” “Ignite Opportunity” and “Ignite Academy” (“Ignite Events”). The Presidential and Executive Directors, together with others, give well-scripted presentations at these Ignite Events that encourage others to invest in the Services Program, or, for those already who had already purchased the Services Program, to recruit others to invest in the Services Program.

115. Stream and Ignite accompany each speaker with music tailored to his or her speech. Perhaps the best explanation of an Ignite Event comes from a *D Magazine* article that described a Power Surge meeting as follows:

THEY HAVE BROUGHT THEIR CHILDREN and their dreams, 2,000 people, give or take, to a ballroom of Houston’s Westin Galleria hotel, on this Saturday afternoon in November.... The people have come for Power Surge, a tent revival-style sales meeting for a Dallas-based power concern called Stream Energy. The people work for Ignite, the multilevel marketing arm of Stream. They recruit customers for Stream—and more salespeople for Ignite.

* * *

Lightning bolts shoot across two enormous video screens displaying the slogan “Get paid when you turn on the lights. ”The Black Eyed Peas’ “Let’s Get It Started ”thunders over the sound system. The crowd sends up a cheer. Then a man named Presley Swagerty leaps

onstage, and the room comes to its feet, save for three small children in back, all kneeling in front of their chairs, concentrating on coloring books. Swagerty is a voluble former high school basketball coach who took his Garland Lakeview Centennial team to the playoffs three times during his four-year tenure. He is now Ignite's highest earner. Swagerty personally has only recruited 18 IAs [Directors], but those 18 have served him well, recruiting more IAs who recruited yet more IAs, until Swagerty wound up with more than 10,000 customers in his downline, each one contributing to his commission check. Swagerty is a celebrity in Ignite circles, posing for photographs with other IAs, sometimes while holding a door-size replica of one of those monthly commission checks. At Power Surge, he had one for \$20,455.50.

116. Swagerty is known within the Ignite pyramid as "the Coach," just as he was known in Excel. At these Ignite Events, Swagerty (and other Presidential and Executive Directors) gives compelling speeches about the vast financial wealth he received through the pyramid. Oddly, these are essentially the same compelling speeches he gave about Excel.

117. One of Swagerty's many presentations is available on the Presidential and Executive Directors' website, plugintoignite.com. In that presentation, Swagerty tells his Ignite story. Before he joined the Ignite pyramid, he was a high school coach and he could not pay his bills. Sometimes he had unpaid bills and only \$3.22 in his checking account. Faced with this shortfall, he just put the unpaid bills in the bottom drawer of his desk and hoped to pay them next month.

(Swagerty failed to mention his involvement with Excel or explain what happened to the “retirement nest egg” he earned from Excel.).¹⁸

118. Then, according to Swagerty, he invested in the Services Program and joined the pyramid. He claims that his involvement in the Ignite pyramid changed his life. His son, Jordan, was able to attend Arizona State and play baseball. (Query, hadn’t Swagerty already paid for Jordan’s college from his Excel income, since that income allowed him to “finance his kids’ college education?”).¹⁹ Now Swagerty is able to see his son play in Arizona by using the airplane he bought “just so [he] can go and watch [Jordan] play.” Swagerty consistently represents to potential investors in the Services Program that he went directly from being a coach to being an Ignite sales person. That representation is obviously false – he was with Excel for many years prior to joining Ignite.

119. Finally, Swagerty says his plane, if he has a plane, did not come from his hard work. He claims he has made his supposed wealth from his early investment in the Ignite pyramid and the labor of those downline from him in the pyramid. Moreover, his sale of Stream energy to retail customers is a minor part of Swagerty’s success. As Swagerty said,

we only need a handful of customers. Everybody understands this and I think this is the key point for all of us, this is not about any of us

¹⁸ See ¶ 90.

¹⁹ Moreover, Jordan is quite a baseball player who is attending college on a sports scholarship.

running all over creation trying to sign up hundreds and hundreds of customers. We need our little handful; we need ten to twenty in our career

Invest in the Ignite Services Program, and, according to Swagerty, all you need to do is “build a huge team of people that get a handful of customers and that’s what makes this whole thing go. Team, getting a bunch, getting a bunch on the team with a handful of customers.”

6.2 The Ignite pyramid is collapsing.

6.2.1 The Presidential and Executive Directors are getting rich at the expense of those that have recently joined the Ignite pyramid.

120. As is expected in any pyramid scheme, those at the very top make progressively more and more money while those at the bottom make less and less. For example, the highest paid Executive Director received \$819,089.50 in 2006, \$2,148,615.50 in 2008 and \$2,231,548.50 in 2009.²⁰ Therefore, between June 2008 and June 2009, the highest paid Executive Director’s revenue was 272.44% of that of the highest paid Executive Director between June 2005 and June 2006. Directors at lower levels, on average, experienced a decrease in revenue between June 2005 and June 2009.

²⁰

Ignite occasionally publishes an “Income Disclosure that states the percentages of Directors at the various levels (Executive Directors, Senior Directors, Managing Directors and Qualified Directors) who have received income from Stream or Ignite. It also states the low, average and high for each level of Directors. Ignite’s Income Disclosures cover June to June for the stated year. Thus, as an example, Ignite’s 2009 numbers are from June 2008 to June 2009.

121. For example, the average Executive Director received \$241,913.60 in 2006, \$152,216.82 in 2008 and \$133,126.50 in 2009. Therefore, between June of 2008 and June of 2009, the average Executive Director's revenue was only 55.03% of that of an Executive Director between June 2005 and June 2006.

122. The average Senior Director received \$10,614.70 in 2006, \$8,716.19 in 2008 and \$8083.12 in 2009. Therefore, between June 2008 and June 2009, the average Senior Director's revenue was only 76.15% of that of a Senior Director between June 2005 and June 2006.

123. The average Managing Director received \$1,723.00 in 2006, \$1,578.77 in 2008 and \$1,458.75 in 2009. Therefore, between June 2008 and June 2009, the average Managing Director's revenue was only 84.66% of that of a Managing Director between June 2005 and June 2006.

124. The average Qualified Director received \$460.31 in 2006, \$174.06 in 2008 and \$129.33 in 2009. Therefore, in between June 2008 and June 2009, the average Qualified Director's revenue was only 28.10% of that of a Qualified Director between June 2005 and June 2006.

6.2.2 Stream's income from retail sales, i.e., sales to individuals who are not also Directors, Is decreasing.

125. As the pyramid has expanded, a growing percent of Stream's customers were also Directors, and, conversely, the percent of retail sales of Stream energy fell. This growth in sales to Directors is further indication that

Ignite's pyramid scheme is collapsing. In December of 2005, the *Dallas Morning News* reported that Ignite had 20,000 Directors and Stream had 130,000 customers. Most Ignite Directors are also Stream customers. Thus, in 2005, approximately 15.38% of Stream's customers were also Ignite Directors.

126. By March of 2006, *D Magazine* reported that Ignite had 25,000 Directors and Stream had 150,000 customers. Therefore, within three months, the percent of Stream customers that were also Ignite Directors grew to 16.67%.²¹

127. By 2008, Ignite had 110,000 Directors and Stream had 330,000 customers, meaning that 33.33% of Stream's customers were also Ignite Directors. Ignite has failed to publish sufficient information to know what percent of Stream's customers are also Ignite Directors in 2009.

128. From June of 2005 to June of 2008, the number of Stream customers rose from 130,000 to 330,000, an increase of 220%. During that same time, the number of Ignite Directors rose from 20,000 to 110,000, an increase of 440%.

6.2.3 Similar to Excel, Ignite is profiting from the pyramid scheme.

129. Taking the best data disclosed by Ignite, in 2008 it had 110,000 directors. During about that same time, June of 2007 to June of 2008, 25.29% (or 27,819 Directors) did not earn any money from their investment in the Services

²¹ Stream, Ignite, the Operators, and the Presidential and Executive Directors have expressly adopted the *D Magazine* article. Ignite and Stream tout it in their literature and the Presidential and Executive Directors tout it on their websites, including PlugIntoIgnite.com.

Program. These 27,819 Directors invested \$9,152,451.00 in the Services program and got nothing.

130. Of the remaining 82,181 Directors, 87.99% (72,331) were Qualified Directors and received an average of \$174.06. Therefore, these 72,331 Qualified Directors invested \$23,796,899 in the Services Program and, in return, received \$12,589,993.86.

131. In 2008, Ignite earned \$20,359,416.14 from Directors that received nothing and Qualified Directors that, on average, received \$174.06. However, that is not all Ignite earned. Each of these Directors likely purchased an Ignite Homesite for \$24.95. Of the 100,150 Directors (who received nothing) and the Qualified Directors (who received on average \$174.06), that is \$2,498,742.50 in revenue to Ignite from Ignite Homesites each month. Assuming that each Director and Qualified Director keeps his Ignite Homesite for six months, that is \$14,992,455.00.

132. The estimated net revenue to Ignite for Qualified Directors and below, in 2008, assuming each person used an Ignite's Homesite for six months, is \$35,351,871.14.

6.3 The defendants knew the Ignite pyramid would collapse.

133. Chris Domhoff, a founder of Stream and Ignite, recognized that the Ignite pyramid is viable only so long as Stream grows. As he was quoted in *D*

Magazine, "Yes, there will be a saturation point over a two-year period," he said. "By that point, we hope to launch in other states." Domhoff, Stream, Ignite and the Operators knew that the pyramid would fail. These defendants never tell their potential recruits that the pyramid will collapse.

134. The *Dallas Morning News* observed in December of 2005:

'The people at the top of the pyramid are going to be the biggest winners, and the people at the bottom are going to be the biggest losers. And eventually the scheme is going to run out,' said Dan Howard, chairman of the marketing department at Southern Methodist University.

If each of Stream's 20,000 sales agents signs three agents (the number that triggers bonus payments), and those agents sign three more, within six rounds every resident of Texas would be a sales agent.

135. The Ignite pyramid's expansion to Georgia will doom Georgians that purchase the Services Program to the same fate. Indeed, the Texas Presidential and Executive Directors have already solidified their place at the top of the pyramid in Georgia.

7. THE DEFENDANTS' SCHEME AND ARTIFICE TO DEFRAUD INCLUDES MANY ACTS OF WIRE AND MAIL FRAUD.

7.1 Overview.

136. The plaintiff, in §§ 7.2.1-7.11.3, below, describes the following important factual allegations: (a) the defendants have engaged in a pattern of racketeering activity, here wire and mail fraud and (b) the defendants have engaged

in interstate commerce. These sections will describe the defendants' acts in support of the Ignite pyramid. These include in person presentations, websites, phone calls and internet presentations. All of which were done in support of the defendants' scheme and artifice to defraud.

7.2 IgniteInc.com.

7.2.1 "Opportunity."

137. Ignite and Stream operate IgniteInc.com, a website hosted in Dallas, Texas that encourages individuals to invest in the Services Program.²² The website contains a number of Flash video presentations.

138. The first of these Flash videos is entitled "Opportunity" and presented by a paid announcer. In the presentation, she says that Ignite is "what we believe is the greatest financial opportunity in America today." She also presents the investment in the Services Program as a "ground floor opportunity and a company with a proven record of performance."

139. Opportunity concludes by inviting the viewer to "become an associate and start your Ignite business for a onetime fee of \$329." It also invites the viewers to set up their own Ignite Homesite for \$24.95 a month so that they can easily recruit others to purchase the Services Program.

7.2.2 "Compensation Plan."

²² See <http://www.ip-adress.com/whois/www.igniteinc.com> (last visited Sep. 23, 2009) (showing that Igniteinc.com is hosted in Dallas, Texas).

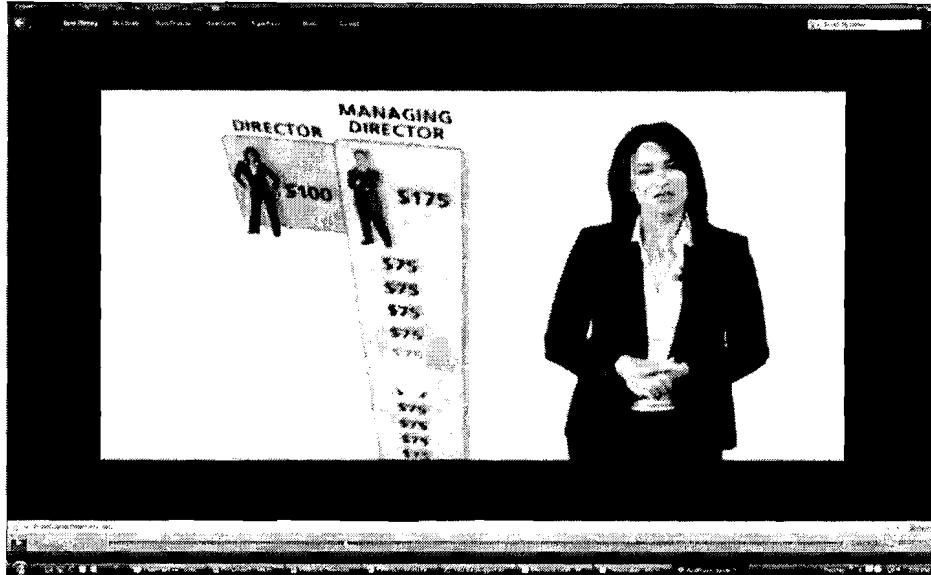
140. The same paid announcer presents the Flash video “Compensation Plan.” She explains the compensation as stated above in § 5.1.

141. The announcer explains that a Director will receive “leadership income” from the Ignite pyramid for signing up new investors to purchase the Services Program. For example, she states that:

Our first leadership position is called managing director. As a managing director you earn \$100 in immediate income just like before but now you earn an additional \$75 for a total of \$175 for each [director] you personally sponsor. Furthermore, this additional \$75 is paid on each [director] below your first level in your managing director organization when he or she enrolls only two customers within his or her first thirty days.

142. She then explains “Leadership income is serious income potential you can earn while you are building your residual income” “The power of Ignite’s leadership income plan is that these bonuses are paid on every associate on every level to unlimited depth. That’s geometric growth to infinity.”²³ She also shows a picture of what “infinity” looks like:

²³ This is patterned on Excel’s “Promote and Earn” PowerPoint slide, *see ¶88*.



143. Finally, she explains the residual income component where a Director is paid between 50¢ and \$1 each month for each customer in his downline. As she states:

once you get Directors, and just ten customers, you're getting paid on 130 customers every month. As you continue to duplicate your 3 and 10 you have 27 associates and 270 customers on your third level, 81 associates and 810 customers on your fourth level and 243 associates and 2,430 customers on your fifth level.

7.2.3 “Success Profiles.”

144. IgniteInc.com contains “Success Profiles” for Presley and Jeanie Swagerty (Presidential Directors), Steve and Diane Fisher (Presidential Directors) and Brian and Beth Lucia (Executive Directors). Each Flash Video presentation stresses the success and wealth that these individuals have obtained through their investment in the Services Program and participation in the Ignite pyramid.

145. Swagerty says this on his and his wife's success profile:

I got involved with Ignite about a year and a half ago and it has been totally life changing. Never dreamed in such a short period of time it would hit six figures, I'm talking monthly not yearly. When you can make an annual salary on a monthly basis it's been amazing in that regard. Never dreamed that would happen, at least not this soon.

Swagerty continues:

It almost still seems like a dream, you know to pull up to the house. We sit on five acres, it's about 5,000 square feet. We've got four bedrooms, six bathrooms, a game room, a media room, we love the pool area. You know I've always wanted to have a little space and it's kind of neat moving out here like this. My daughter got to go to Baylor because of this business. As a coach I couldn't have afforded to send her to Baylor. But she is at Baylor, my son in private school. Again, my mom in an assisted living place instead of a nursing home and you know it's because of this. You know my daughter's in the business, my son can't wait for his next birthday because he will be in the business and you know, it's one of those deals where it's a family deal.

Swagerty never mentions, here or in any other Ignite presentation that he was with Excel, and not a coach, prior to joining Ignite. To do so would destroy his credibility.

146. Brian Lucia said this on his and his wife's success profile: "When my best friend approached me with the Ignite opportunity it was a week before we found out we were pregnant. In less than one year's time we replaced her income after 16 years of teaching." Lucia said this as well:

the first associate that we signed underneath us was a buddy of mine who I was in a hotel room in Omaha, Nebraska and I said hey I've a new business I want to you to take a look at. I write this down, had him write down my website, I said takes about 10 minutes to watch a video. He called me in 12 minutes said I'm in.

147. Lucia concludes by saying, “the way the compensation plan is set up, people get that money in their hands quickly.”

7.3 PlugIntoIgnite.com.

7.3.1 PlugIntoIgnite.com was created and maintained by Trey Dyer and other Presidential and Executive Directors.

148. In August of 2007, the Presidential and Executive Directors first created, maintained and provided content for “PlugIntoIgnite.com,” a website to attract new individuals to invest in the Services Program and join the Ignite pyramid. PlugIntoIgnite.com is hosted in Utah.²⁴ PlugIntoIgnite.com contains an invitation for visitors to contact the Presidential and Executive Directors that run the website. This website also contains materials to assist their downline Directors to recruit new investors. PlugIntoIgnite.com has been successful. As of October 9, 2009, PlugIntoIgnite.com had more than 92,000 visitors. PlugIntoIgnite.com may also be financially supported by Stream and Ignite.

149. Like Swagerty, all Presidential and Executive Directors in the pyramid are earning bonuses for each new recruit who signs up in their downline. Moreover, they earn commissions for all of the customers signed up in their

²⁴ See <http://www.ip-adress.com/whois/plugintoignite.com> (last visited on Sep. 23, 2009) (showing that the host of PlugIntoIgnite.com is in Orem, Utah); <http://www.ip-adress.com/whois/www.teamextremetraining.com> (last visited on Sep. 23, 2009) (showing that the host of TeamExtremeTraining.com is in Orem, Utah).

downline. Thus, they are very motivated to work to promote and support the pyramid.

150. Under the “About Us” tab, PlugIntoIgnite.com informs visitors of the following:

Plugintoignite.com was started as a simple file sharing page set up for me and a few of my friends, leaders, and team members. Over the last 3 years it has grown tremendously and is now used by much of the Ignite family. The material on the site is designed to compliment, not replace, the already awesome training provided by Corporate. It is made possible by a handful of hard working [Executive Directors] and [Presidential Directors]. We hope you enjoy it and if you would like to see something added drop us an email through the Contact Us link on the home page. Enjoy!!

Follow along with me on twitter at: http://twitter.com/Trey_Dyer.

151. Trey Dyer is an Executive Director and directly administers and maintains PlugIntoIgnite.com. Dyer, together, with the Presidential and Executive Directors, jointly pays for and maintains PlugIntoIgnite.com.

152. PlugIntoIgnite.com has several components, including audio recordings of presentations by Presidential and Executive Directors, Ignite and Stream.

7.3.2 “Associate Training” on PlugIntoIgnite.com.

153. “New Associate Training” contains presentations to assist new Directors in learning how to conduct their Ignite businesses. There are four sections within these training materials.

154. “*Purchase Ignite Homesite and Enroll 2 Customers.*” This section contains one presentation by Brian Lucia, an Executive Director, in which he instructs Directors on how to sign up customers for Stream. In the presentation, he tells Directors to inform potential customers that Stream’s price for electricity is less than all other companies in Texas. In particular, he tells Directors that most people do not know what they are paying, so in the sale, the Directors should just say that Stream “is less” and will “save them money.”

155. “*Sponsor 3 to 5 Associates.*” This section contains three presentations on how to get three to five individuals to invest in the Services Program and join the pyramid. The first presentation is by Logan Stout. Stout is a Presidential Director that Ignite touts as its number two money earner. Stout’s presentation is entitled “Recruiting with Logan Stout.” In the presentation, he emphasizes the need to recruit new investors in the Services Program, “which is something you have to do.” He states that his income from involvement in the pyramid is “passive income.” As Stout stated, “I have folks in my Executive Director group that have thousands of people underneath them and they don’t even work the business. They don’t even work the business.”

156. Stout also says, “the majority of my business has been built from cold market recruiting.” Indeed, the bulk of his speech is about how to use “cold market recruiting” to find investors for the pyramid.

157. The second presentation, by Swagerty is entitled “The Coach Shares His Secrets on Recruiting.” He explains that he has made \$117,000 in a recent month, but he has only signed up twenty customers for Stream. Of the \$117,000, he states that only \$10.00 is income from his twenty customers. His income from the pyramid is almost entirely passive and his presentation, like Stout’s, emphasizes cold marketing.

158. The third presentation is by Randy Hedge, a Presidential Director, also known within the pyramid as “the Cowboy.” His presentation is entitled “Recruiting with Randy Hedge” and is an inspirational and humorous presentation on how to attract investors. Hedge also stresses that “it, ain’t getting them [to be] customers, let’s be honest.” It is getting new recruits to invest in the Services Program and join the Ignite pyramid.

159. *“Help Your 3 to 5 Associates do the Same.”* This section contains four more presentations on how to get a Director’s three to five new investors to each bring in three to five new investors. The first presentation is by Quincy Jones, an Executive Director, and is entitled “72 Hour Danger Zone.” He has several thousand “associates.” He emphasizes the need to use the telephone to call folks to invite them to invest in the pyramid. He specifically mentions that Swagerty is on frequent conference calls to “share this business [*i.e.*, the pyramid].”

160. Jones closes by comparing his work in bringing new investors into the pyramid to Harriet Tubbman's work. She saved slaves; Ignite saves financial futures.

161. Fisher, Hedge and Stout also make presentations on how to expand the pyramid.

162. Fisher makes the goal clear. After gathering four customers, Directors are to recruit individuals to invest in the Services Program and join the pyramid.

As Fisher says:

Once you've got your 4 [customers] in 24 [hours], I take my associates out of the customer gathering business at that point, when they've got their four customer points I say ok, you're done gathering customers for a little while, we're gonna do what's important and that is to start building this team [*i.e.*, gather new investors].

163. Fisher next stresses the need to assure that those you are attempting to recruit have \$329. He defines a qualified person as follows: “[*i*]f we were gonna go spend 45 minutes with them showing them the business presentation and they like what they see, you know they could write a check for \$329 or they could put it on a credit card, the money is not gonna be an issue.”

164. Fisher used the telephone to contact new recruits:

The first person that I called was Coach Bob Ledbetter, anyone in here know Coach Bob Ledbetter? Great man. Coach Ledbetter was a friend of mine. We used to meet for breakfast about once a month once every other month and just get caught up with each other and I called Coach, he was the first person I called in this business. I said

Coach I wanna meet you for breakfast, I said meet me at the McDonald's by my house, I wanna buy you breakfast. I was cheap.

165. Hedge's presentation follows Fisher's. Hedge notes that some folks will oppose the investment in the Services Program as it is "a pyramid." He attempts to address this concern by stating, "Hey look, has any of y'all heard that [allegation that Ignite is a pyramid scheme]? Has anyone ever, let's get something straight, I don't care if you call it an octagon, parallelogram, rectangle, they're sending me a check."

166. Hedge also proposes that selling investments in the pyramid is God's work.

God's given you opportunity to share this I can tell you my personal story in my life, I was praying for something. I didn't know it was this. Matter of fact, when Presley came I remember saying no God I want something real I promise you you ain't got no friends or family right now setting at home praying, Dear Lord, have one of my friends bring one of them electric pyramid deals to me.

Hedge continues:

Million dollars, you know my best friend's [Swagerty] already made almost four million with this, the guy I told no, the guy I laughed at, the guy spit on my brother and Christ, the guy who was there for me in my worst of times in my life, being knowing and loving him 15 years, Presley came to me and I said no. I made, I almost made a profession out of being a jerk.

167. It is noteworthy that PlugIntoIgnite.com's New Associate Training spends seven times more time instructing its Directors on how to persuade

individuals to invest in the pyramid than it does instructing them on how to sell Stream.

7.3.3 Conference Calls (“The Coach and Cowboy Hour”) on PlugIntoIgnite.com.

168. The two individuals most responsible for PlugIntoIgnite.com, other than Dyer, are Swagerty a/k/a “Coach” and Hedge a/k/a “Cowboy.” The “Coach and Cowboy” conference calls are available to anyone that telephoned 646-519-5800, a New York number, and entered Access Code 5098#.²⁵ The purpose of these conference calls is to bring new investors into the Ignite pyramid and to sponsor, support and assist others to do the same. The following telephone conference calls occurred on the dates stated below, and each included the Coach and Cowboy (usually), as well as the stated “guest(s)” (as reported on PlugIntoIgnite.com):

- a. 10-25-2009 The Coach hosts with Special Guest SD Bobby Frasier.
- b. 10-11-2009 The Cowboy and Childers host with Special Guest PD, Coach Bob Ledbetter. Ledbetter tells participants that Ignite is a “ground floor opportunity.” He also assures participants that “this is not about getting customers.”
- c. 10-4-2009 The Coach and Childers host with Special Guests PDs, #3 Money Earner Steve Fisher and Sister Susan Fisher. Hedge recognized Childers as a “co-host” of the “Coach and Cowboy” conference call.

²⁵ See <http://www.bennetyee.org/ucsd-pages/area.html> (last visited on Sep. 23, 2009) (showing that area code 646 is in New York, New York).

- d. 9-27-2009 The Coach and Cowboy with Special Guest Chris LaFaive. Chris LaFaive stated he started with Ignite gathering investors in Georgia. He will be touring Texas (McAllen, Corpus Christi, San Antonio and Round Rock) in October of 2009 presenting the Ignite Opportunity. The Cowboy or Coach estimated that one-half of the persons that called in were in Georgia.
- e. 9-20-2009 The Coach and Cowboy, Bryan Childers and Myself, Trey Dyer. The Coach joined the call from Texas, the Cowboy from Arkansas and Childers joined from Georgia. The Cowboy introduces Childers as “one of the top earners out in Georgia.”
- f. 8-23-2009 Special Guests, EDs Dave Regis, Bryan Childers and Myself, Trey Dyer. The Coach joined the call from Georgia, the Cowboy joined from Arkansas and Childers joined from Georgia. The Coach stated that the beginning of the call is “kinda like a madhouse and I love it, we gotta a lotta folks wanting to get in on the Coach and Cowboy conference call. The Cowboy had trouble joining the call because “all circuits [were] busy.” Bryan Childers, from Georgia, joined the call. The purpose of this call was to recruit persons in Georgia to purchase the Services Program. The Cowboy mentions that “And that’s money we’re talking about Brian, I know you’re from southern Georgia, we’re talking about pile of money.” The Coach mentions that he soon will be going to Savannah, Georgia for six Ignite meetings. The Coach also mentions “Greg McCord’s gonna join me Tuesday and Wednesday in Atlanta.
- g. 8-16-2009 Special Guests, PD Susan Fisher and ED Ryan Morris.
- h. 8-9-2009 Special Guests, ED Terry Hatch and the Legendary Barbara Barkowski!!!
- i. 8-2-2009 Special Guests, ED Terry Hatch and Tony Perry.

- j. 7-26-2009 The Coach and Childers and Myself talk excitement and teambuilding.
- k. 7-19-2009 The Coach and Childers talk about Power Surge and success in the biz!
- l. 6-28-2009 The Coach and Cowboy talk shop!
- m. 6-7-2009 Special Guest, ED Ryan Morris was on the call with the Cowboy. Another great call!!! The first words are “Guys, welcome to the, uh, Sunday night Coach and Cowboy conference call. This is Randy Hedge. I am calling you from, uh, Sevier County. I am on the south side of De Queen Lake. Sitting out on my patio ... got the fire pit going, with the tiki torches ... Uh, it is just an absolute beautiful night here in De Queen, Arkansas.” Also on the call was Ryan Morris and his mom, Martha Troy. In this call, the organizers represented the investment in the Services Program was “recession proof” and it involved “no luck.” They also said that “[i]f you graph [the income], it is almost a straight upward line.” They also state that this “can and will happen” if the investors “work hard.”
- n. 5-31-2009 Special Guest, ED Stefan Rodriguez was on the call. Great Call!!! The first words are “Guys, welcome to the Coach and Cowboy conference call. My name is Randy Hedge, and I’m calling you from my home in De Queen, Arkansas.” Also on the call was Stefan Rodriguez, who lives in Alvin, Texas. During the call, Hedge mentions that he will be in Dallas next week and Georgia the following week (for certain Ignite events).
- o. 5-3-2009 Special Guests, EDs Brian Childers and Pete Meadows talk shop!
- p. 4-19-2009 The Coach, The Cowboy and Childers spell it out!!! On this call, the organizers state that if you invest in Ignite, you will “[n]ever have to say you don’t have money anymore.”

- q. 4-5-2009 Special guests, Executive Directors, Beth and Charlie Jones. The host says beginning of the call that it sounds like “thousands of people” are on the call from Georgia.
- r. 3-22-2009 Special guests, Executive Director Scott Williams and Presidential Director Tim Rose!! Here, the organizers represent that “... every day is a Saturday ... [when you are a director] you aren’t stressing over everything financially.”
- s. 3-15-2009 Special guest, Presidential Director Terry Yancey!!
- t. 3-1-2009 The Coach, the Cowboy and Childers spell out what it takes!!
- u. 2-22-2009 The Coach, the Cowboy and Childers recap Ignition 2009.
- v. 2-15-2009 The Coach, the Cowboy and Childers. What a call! Hedge says he is in his car on his cell phone about to cross the Texas/Arkansas line. Within 3 minutes, Presley Swaggerty says he is in Phoenix, Arizona. Brian Childers says “we are more fired up than a roman candle ... here in the state of Georgia.”
- w. 2-8-2009 The call featured new ED David Trujillo and the Ignition 2009 agenda by ED Brian Lucia.
- x. 1-25-2009 The call had some technical difficulties at first but were resolved a few minutes in.
- y. 1-18-2009 The call featured EDs Dave Regis, Bryan Childers, and Ryan Morris.
- z. 1-11-2009 The call featured ED Bryan Childers and SD Jim Gurtner. Great Call!
- aa. 12-21-2008 The call featured special guests EDs, Bryan Childers, Tim Rose and Randall Blackmon.

- bb. 12-14-2008 The call featured special guests EDs, Bryan Childers and Kenny Isbell. Great call!!!
- cc. 11-23-2008 The Coach and Cowboy with special guests Executive Directors Martha Troy and Kenny Isbell.
- dd. 11-16-2008 The Coach and Cowboy with special guest Executive Director Brian Lucia.
- ee. 10-19-2008 The Coach and Cowboy discuss the next big run for our business.
- ff. 10-12-2008 The Coach and Cowboy and myself talk about how to be successful in Ignite.
- gg. 10-5-2008 The Coach and Cowboy talk about excitement and what it takes to win!!!
- hh. 9-28-2008 The Coach hosted with guests Executive Director, Martha Troy, and myself, Trey Dyer.
- ii. 9-21-2008 The Coach and Cowboy living the life!!
- jj. 9-14-2008 Special Guest on the call were new Executive Directors, Louis and Michelle Miori.
- kk. 9-7-2008 The Coach and Cowboy tell it like it is.
- ll. 8-24-2008 Special Guest on the call was New Executive Director Ryan Morris
- mm. 8-18-2008 EDs, Brian Lucia and Greg McCord hold court.
- nn. 8-4-2008 EDs, Brian Lucia and Greg McCord discuss success strategies.
- oo. 8-3-2008 Special Guests are EDs Tim Sparkman and Kenny Isabell.
- pp. 7-28-2008 Promotions and Tools and Rates, Oh My!!!!!! The perfect Storm!!!

- qq. 7-20-2008 Special Guest is Director of Field Development, Darryl Smith.
- rr. 6-29-2008 Special Guest is Executive Director Debbie Smith.
- ss. 6-22-2008 Special Guests were Executive Directors, Dave Regis and Randall Blackmon.
- tt. 6-15-2008 The Coach, Presley Swagerty and Cowboy, Randy Hedge, host the call.
- uu. 6-8-2008 The Cowboy, Randy Hedge, hosts the call. Great Call!!
- vv. 6-1-2008 The Coach, Presley Swagerty and Cowboy, Randy Hedge, host the call.
- ww. 5-11-2008 The Cowboy, Randy Hedge, hosts the call with special guests, Executive Directors, Terry and Shelba Yancy.
- xx. 5-4-2008 The #1 Money Earner, Presley Swagerty, hosts the call.
- yy. Corporate Conference Call on Enrolling Customers in Georgia Doug Witt, Director of Operation, Darryl Smith, Director of Field Developement [sic] and Brian Lucia, SD, head Trainer, give us the nitty gritty on customers.
- zz. 4-20-2008 Director of Operations, Doug Witt gives some insight on rates and gathering customers in Georgia.
- aaa. 4-13-2008 The Coach and Cowboy tell us how it is.
- bbb. 3-30-2008 Newest ED Richard Tuite and ED Tim Sparkman talk about their success.
- ccc. 3-16-2008 The Coach and Cowboy talk shop!
- ddd. 3-4-2008 Team Desires Greg McCord and Brian Lucia discuss the 3 month 10.6 deal and the March promotion.

This is a great call, a little long at 50 minutes, but well worth it!!!!

- eee. 3-9-2008 Women of Power, EDs Susan Fisher, Desiree McKellar, and Jamie Piersol tell it like it is.
- fff. 3-2-2008 The Coach talks about how to get started on the right track!
- ggg. 2-24-2008 The Coach and Cowboy spell it out!
- hhh. 2-19-2008 Senior Director, Brian Lucia and #4 Money Earner ED Greg McCord clarify the new promotion. Here the organizers state "I would love to put \$350 on the blackjack table in Vegas and get back \$400 every time, because that is what we are doing here."
- iii. 2-10-2008 Guests were Senior Director, Brian Lucia and #2 Money Earner ED Logan Stout.
- jjj. 1-27-2008 Hosts were Executive Directors Tim Sparkman, Randall and Michelle Blackmon, Donny Anderson, and Corporate Trainer, Senior Director, Brian Lucia.
- kkk. 1-20-2008 Hosts were Executive Directors Debbie Smith and Trey Dyer and Corporate Trainer, Senior Director, Brian Lucia.
- lll. 1-13-2008 Hosts were #4 Money Earner, Executive Director Greg McCord and Corporate Trainer, Senior Director and all around nice guy, Brian Lucia.
- mmm. 1-6-2008 Special Guests were Executive Director Mark Florez and Future ED, Brian Lucia.
- nnn. 12-30-2007 Special Guests were Executive Directors Tim Sparkman and Martha Troy.
- ooo. 12-16-2007 Special Guests were Executive Director Randall Blackmon and Senior Director Kenny Isabell.

- ppp. 12-9-2007 Special Guests were Executive Directors Terry Hatch and Dave Regis.
- qqq. 12-2-2007 Special Guests were All New Executive Directors from Houston, Randall Blackmon, Ted Hasson, and Bob Perkins.
- rrr. 11-25-2007 What a fun call! Guests tonight were Tim Sparkman, Debbie Smith, Susan Fisher, and Greg McCord. Excellent Call!!!!
- sss. 11-11-2007 What a fun call! Guests tonight were Kirk Newsom, Debbie Smith and myself. There were some great ideas tossed around. Great call!!!!
- ttt. 11-4-2007 What a fun call! Guests tonight were #4 Money Earner Greg McCord and myself. We had a great time role playing and talking about how we got started and what worked!!
- uuu. 10-28-2007 The call was awesome tonight! EDs Tim Sparkman, Martha Troy, and Dave Regis had a roundtable discussion on what they do that works!! Great call!!
- vvv. 10-21-2007 Special Guest is #4 Money Earner Greg McCord. Great Call!
- www. 10-14-2007 Special Guest Executive Director Dave Regis gives his insight. The computer rebooted during the first part of the call so this is a partial recording. Still excellent!!
- xxx. 10-7-2007 Presley "The Coach" Swagerty flies solo and gives some classic training.
- yyy. 9-30-2007 Special Guest Executive Director "The Kid", Tim Sparkman tells his story and discusses his successes and failures in the business.

- zzz. 9-23-2007 Special Guest is Darryl Smith, Director of Field Development. Darryl talks about the latest Ignite Academy in Houston.
- aaaa. 9-16-2007 Special Guest is ED Sally Dyer. Sally does some role playing with the Coach and Cowboy.
- bbbb. 9-9-2007 The Coach and The Cowboy talk about attitude and commitment and role play, setting up appointments. Very good call!!
- cccc. 9-2-2007 Special Guest #4 Money Earner Greg McCord.
- dddd. 8-26-2007 Special Guest Top Ten Money Earner Joel Claybrook.
- eeee. 8-19-2007 Special Guest Top Ten Money Earner Legendary Coach Bob Ledbetter.
- ffff. 8-12-2007 Special Guests are Ignites 30th Executive Directors Karen and Darrell Boeske.
- gggg. 8-5-2007 Special Guest is Ignites 29th Executive Director Bob Aulds.
- hhhh. 7-29-2007 Special Guests are Ignites 28th Executive Directors Dave and Kathy McKinney.
- iiii. 7-22-2007 Special Guest is Ignites 27th Executive Director Martha Troy.
- jjjj. 7-15-2007 Special Guest Director of Field Developement (sic) Darryl Smith.
- kkkk. 7-1-2007 Special Guest Top Ten Money Earner Legendary Coach Bob Ledbetter.
- llll. 6-24-2007 Special Guest Top Ten Money Earner Tim Rose.
- mmmm. 6-17-2007 Special Guest is Ignites 26th Executive Director Quincy Jones.

- nnnn. 6-10-2007 Special Guest is Ignites 25th and Baird's 2nd Executive Director Debbie Smith.
- oooo. 5-13-2007 The Coach and the Cowboy share their vision.
- pppp. 3-25-2007 Special Guest is Executive Director Willa Gipson.
- qqqq. 3-18-2007 Special Guest is #3 Money Earner Executive Director Steve Fisher. Fisher states "you know you are having the time of your life when your weekly check is five figures." He then states "I make more with Ignite in a week than I made in 6 months with American Airlines ... and I had to work hard during those 6 months." Finally, he states that "Financial independence is getting paid on the efforts of others, whether you show up to work or not."
- rrrr. 2-11-2007 Special Guest is Executive Director Domenic Carlucci.
- ssss. 1-28-2007 Special Guest is Ignites Top Female Money Earner Executive Director Susan Fisher.
- tttt. 1-21-2007 Special Guest is Top Ten Money Earner Mark Flores.

169. In total, there have been ninety-eight "Coach and Cowboy" conference calls to date. Each organizer and invited listener in these conference calls used the "wire," *i.e.*, a telephone. On each call, Betts alleges that there was at least one organizer and at least one invited listener since the organizer would have terminated the call if no invited listeners attended.

170. In addition, the Presidential and Executive Directors have made each of these ninety-seven conference call recordings available on PlugIntoIgnite.com. Betts alleges that at least three persons, other than the sponsors of these recordings

have used the “wire,” *i.e.*, the internet, to listen to the conference call on the basis that there have been over 92,000 visitors to PlugIntoIgnite.com.

171. To summarize, each of these Executive Directors has participated in one or more of the “Coach and Cowboy” conference calls: Bob Aulds, Barbara Barkowski, Randall and Michelle Blackmon, Karen and Darrell Boeske, Domenic Carlucci, Brian Childers, Joel Claybrook, Sally Dyer, Willa Gipson, Ted Hasson, Terry Hatch, Kenny Isbell, Beth and Charlie Jones, Quincy Jones, Chris LaFaive, Brian Lucia, Greg McCord, Desiree McKellar, Dave and Kathy McKinney, Kirk Newsom, Pete Meadows, Louis and Michelle Miori, Ryan Morris, Bob Perkins, Tony Perry, Jamie Piersol, Dave Regis, Stefan Rodriguez, Debbie Smith, Tim Sparkman a/k/a “The Kid,” Martha Troy, Richard Truite, David Trujillo and Scott Williams.

172. In addition to the persons listed above, Presidential Directors Donny Anderson, Steve Fisher, Susan Fisher, Mark Florez, Robert L. Ledbetter, Tim Rose, Logan Stout, and Terry Yancey participated in the “Coach and Cowboy” presentations.

173. Ignite and Stream also directly participated in the “Coach and Cowboy” presentations. Specifically, between April 20 and May 5, 2008, Doug Witt, Director of Operations, and Darryl Smith, Director of Field Development, spoke on “Enrolling Customers in Georgia.” On July 20, 2008, September 23,

2007 and July 15, 2007, Darryl Smith, Director of Field Development, spoke in support of the pyramid. Brian Lucia, an Executive Director in the pyramid, is also employed by Ignite and Stream as a “Corporate Trainer.”

7.3.4 “Ignite Academy Clips” on PlugIgnite.com.

174. Ignite sponsors the “Ignite Academy,” which consists of large meetings where it seeks new investors in the Services Program and trains Directors to do the same. The Presidential and Executive Directors have made each of these presentations available to visitors at PlugIntoIgnite.com.

175. At the Ignite Academy in Atlanta, Georgia, April 12, 2008, the following Presidential or Executive Directors made these presentations:

- a. Randy Hedge (a/k/a, “The Cowboy”) presented the “Business Building Action.”
- b. Randy Blackmon presented the “72 Hour Danger Zone.”
- c. Steve Fisher presented “Steve Fisher on Belief.”

176. At the Ignite Academy in Atlanta, Georgia, April 26, 2008:

- a. Trey Dyer presented the “72 Hour Danger Zone.”
- b. Steve Fisher presented the “Business Building Action Plan.”
- c. Susan Fisher presented “Recruiting with Susan Fisher.”
- d. Brian Lucia presented “Gathering Customers” and “Customer Guidelines.”

177. At the Ignite Academy in Houston, Texas, December 8, 2007, the following Presidential or Executive Directors made these presentations:

- a. Brian Lucia presented “Goalsetting.”
 - b. Susan Fisher presented “72 Hour Danger Zone.”
 - c. Presley Swagerty presented “Business Building Action Plan with Presley Swagerty.”
 - d. Susan Fisher presented “Recruiting with Susan Fisher.”
 - e. Presley Swagerty presented “Presley Swagerty on Belief.”
178. At the Ignite Academy in Arlington, Texas, September 29th, 2007:
- a. Quincy Jones presented the “72 Hour Danger Zone.”
 - b. Steve Fisher presented the “Business Building Action Plan.”
 - c. Presley Swagerty presented “Recruiting with Presley Swagerty.”
 - d. Greg McCord (a/k/a the “Space Monkey”) presented “Power Center.”
 - e. Domenic Carlucci presented “Team Building.”
179. At the Ignite Academy in Houston, Texas, September 22, 2007, the following Presidential or Executive Directors made these presentations:

- a. Wendell Campbell presented “72 Hour Danger Zone.”
- b. Debbie Smith presented “Recruiting with Debbie Smith.”
- c. Randy Hedge presented “Business Building with Randy Hedge.”
- d. Brian Lucia presented “Gathering Customers” and “Customer Basics.”
- e. Chris Domhoff, Ignite CEO, a/k/a “Our Leader,” presented his vision and celebrated the new Executive Directors.
- f. Wendell Campbell presented “Team Building with Wendell Campbell.”

- g. Darryl Smith, Ignite's Director of Field Development and "Our Corporate liason" talked about "where we've been and where we are going."
- h. Brian Lucia presented "Communication Skills Part 1" and "Communication Skills Part 2."
- i. Randy Hedge presented "Wrapping it all up."

180. At the Ignite Academy in Abilene, Texas, August 25, 2007, the Presidential or Executive Directors made these presentations:

- a. Randy Hedge presented "Recruiting with Randy Hedge" and "Follow the Plan with Randy Hedge."
- b. Coach Bob Ledbetter presented "Coach Bob Ledbetter on Belief."
- c. Sally Dyer presented "72 Hour Danger Zone."
- d. Brian Lucia presented "Communication with Brian Lucia" and "CUSTOMERS!!"
- e. Kirk Newsom presented "Power Center with Kirk Newsom."

7.3.5 "Presentation Tools" on PlugIntoIgnite.com.

181. PlugIntoIgnite.com contains, under "Presentation Tools," the following information provided by Ignite and Stream Energy:

- a. the "Ignite Opportunity Flash Presentation," an official corporate flash presentation;
- b. the "Ignite Quick Start Training Presentations," an official corporate PowerPoint presentation that instructs new investors on how to "[e]nroll on your sponsor's Ignite Homesite," "[s]et up your personal Ignite Homesite," "[w]atch the Ignite Opportunity Video" and "qualify" potential investors by, among other things, assuring that they have \$329.00 to invest;

- c. the “Ignite Compensation Worksheet,” an official corporate Adobe file that can be used to explain the pyramid’s compensation plan;
- d. the “Power Plan Workbook,” the “Ignite Bible!!!,” an official corporate Adobe file to “teach these simple steps everyday and you’ll build a huge, duplicating “Money Machine!!!”
- e. the “8 X 10 Flip Chart,” an official corporate presentation that summarizes the “Ignite Opportunity Flash Presentation”; and
- f. the “Texas Energy Screen Saver Presentation,” an official corporate PowerPoint presentation that is to be “used before a meeting.”

182. PlugIntoIgnite.com also displays Ignite’s and Stream’s logos, materials and trade dress to such a degree that it would be impossible for any casual or prudent observer to distinguish Ignite and Stream from PlugIntoIgnite.com.

183. The Presidential and Executive Directors have made each of these documents available on PlugIntoIgnite.com. Betts alleges that at least three persons, other than the Presidential and Executive Directors, have used the “wire,” *i.e.*, the internet, to access these documents on the basis that there have been over 93,000 visitors to PlugIntoIgnite.com.

184. To summarize, each of the Presidential and Executive Directors has participated in one or more of the presentations that is available to visitors via the internet.

7.4 Ignite Events in Georgia and Texas.

7.4.1 Georgia Meetings.

185. The Presidential and Executive Directors have also held meetings in Georgia to gather new Directors. At each of the Ignite Events, the Presidential and Executive Directors listed below sought and pursued others to purchase the Services Program:

- a. On October 15, 2009, Fisher attended an Ignite meeting in Acworth, Georgia.
- b. On October 14, 2009, Fisher attended an Ignite meeting in Peachtree City, Georgia.
- c. On October 13, 2009, Swagerty attended an Ignite meeting in Atlanta, Georgia.
- d. On October 12, 2009, Fisher attended an Ignite meeting in Alpharetta, Georgia.
- e. On October 8, 2009, Swagerty attended an Ignite meeting in Atlanta, Georgia.
- f. On October 7, 2009, Childers and Swagerty attended an Ignite meeting in Peachtree City, Georgia.
- g. On October 6, 2009, Swagerty attended an Ignite meeting in Atlanta, Georgia.
- h. On October 5, 2009, Bigbie and Swagerty attended an Ignite meeting in Alpharetta, Georgia.
- i. On September 23, 2009, Childers and Swagerty attended an Ignite meeting in Peachtree City, Georgia.
- j. On September 14, 2009, Bigbie and Fisher attended an Ignite meeting in Alpharetta, Georgia.

- k. On August 20, 2009, Lucia attended an Ignite meeting in Atlanta Georgia.
- l. On August 20, 2009, Fisher attended an Ignite meeting in Kennesaw, Georgia.

7.4.2 Texas Meetings.

186. The Presidential and Executive Directors have also held meetings in Texas to gather new Directors. At each of the Ignite Events, the Presidential and Executive Directors listed below sought to pursue others to purchase the Services Program:

- a. Anderson intends to attend an Ignite meeting in Dallas, Texas on October 31, 2009.
- b. Swagerty intends to attend an Ignite meeting in Houston, Texas on October 29, 2009.
- c. On October 28, 2009, Fisher attended an Ignite meeting in North Dallas, Texas.
- d. On October 28, 2009, Swagerty attended two Ignite meetings in Houston, Texas.
- e. On October 27, 2009, Fisher attended an Ignite meeting in McAllen, Texas.
- f. On October 27, 2009, Swagerty attended an Ignite meeting in League City, Texas.
- g. On October 27, 2009, Swagerty attended an Ignite meeting in Houston, Texas.
- h. On October 26, 2009, Fisher attended an Ignite meeting in San Antonio, Texas.
- i. On October 26, 2009, Swagerty attended an Ignite meeting in Pearland, Texas.

- j. On October 24, 2009, Anderson attended an Ignite meeting in Dallas, Texas.
- k. On October 22, 2009, Swagerty attended an Ignite meeting in Waco, Texas.
- l. On October 22, 2009, Ray and Rebecca Bickerstaff attended an Ignite meeting in Waco, Texas.
- m. On October 21, 2009, Swagerty attended an Ignite meeting in North Dallas, Texas.
- n. On October 21, 2009, Anderson attended an Ignite meeting in Houston, Texas.
- o. On October 21, 2009, Fisher attended two Ignite meetings in Houston, Texas.
- p. On October 20, 2009, Fisher attended an Ignite meeting in Houston, Texas.
- q. On October 20, 2009, Swagerty attended an Ignite meeting in Plano, Texas.
- r. On October 20, 2009, Swagerty attended an Ignite meeting in Dallas, Texas.
- s. On October 19, 2009, Swagerty attended an Ignite meeting in Richardson, Texas.
- t. On October 19, 2009, Anderson and Fisher attended an Ignite meeting in Houston, Texas.
- u. On October 17, 2009, Anderson attended an Ignite meeting in Dallas, Texas.
- v. On October 15, 2009, Rose Energy Group, Inc. attended an Ignite meeting in Denton, Texas.
- w. On October 15, 2009, Anderson attended an Ignite meeting in Laredo, Texas.

- x. On October 8, 2009, D. Regis Marketing Inc. attended an Ignite meeting in Euless, Texas.
- y. On October 8, 2009, Ray and Rebecca Bickerstaff attended an Ignite meeting in Waco, Texas.
- z. On October 8, 2009, Fisher attended an Ignite meeting in Houston, Texas.
- aa. On October 7, 2009, Fisher attended two Ignite meetings in Houston, Texas.
- bb. On October 5, 2009, Hatch & Associates attended an Ignite meeting in Denton, Texas.

7.5 TeamExtremeTraining.com.

187. Trey Dyer administers TeamExtremeTraining.com that is hosted in Utah.²⁶ Stream, Ignite and the Presidential and Executive Directors maintain, finance and provide content for TeamExtremeTraining.com. The site refers visitors to PlugIntoIgnite.com:

Need training?

PlugIntoIgnite.com

If you want the most comprehensive training out there (outside of the Power Center) then visit PlugIntoIgnite.com. There you will find tips from the top money earners along with helpful files and documents to help get your business in high gear!

188. TeamExtremeTraining.com sponsors the “Coach and Cowboy” conference calls. TeamExtremeTraining.com invites the public to these conference

²⁶ See <http://www.ip-adress.com/whois/plugintoignite.com> (last visited on Sep. 23, 2009) (showing that the host of PlugIntoIgnite.com is in Orem, Utah); <http://www.ip-adress.com/whois/www.teamextremetraining.com> (last visited on Sep. 23, 2009) (showing that the host of TeamExtremeTraining.com is in Orem, Utah).

calls by dialing 646-519-5800, a New York number, and entering Access Code 5098#.

189. TeamExtremeTraining.com also sponsors a Monday night conference call entitled “Team Extreme/Desire Conference.” The “Team Extreme/Desire Conference” conference calls were available to anyone that telephoned 646-519-5800, a New York number, and entered Access Code 5098#.²⁷ The invitations state, “Join #4 Money Earner Greg McCord, Corporate Trainer Executive Director Brian Lucia, and myself [Trey Dyer] for a conference call each Monday night designed to give you vital information for the success of your business.” Conference calls occurred on the following Monday evenings: November (2008) 24; December (2008) 1, 8, 15, 22 and 29; January (2009) 5, 12, 19 and 26; February (2009) 2, 9, 16 and 23; March (2009) 2, 9, 16, 23 and 30; April (2009) 6, 13, 20 and 27; May (2009) 4, 11, 18 and 25; and June (2009) 1, 8 and 15.

190. TeamExtremeTraining.com, Dryer, McCord or Lucia participated as an organizer or participant in one or more of these conference calls. In total, there have been thirty-one Team Extreme/Desire Conference calls to date. Each organizer and the invited listener in these conference calls used the “wire,” *i.e.*, a telephone. On each call, Betts alleges that there was at least one organizer and at

²⁷ See <http://www.bennetyee.org/ucsd-pages/area.html> (last visited on Sep. 23, 2009) (showing that area code 646 is in New York, New York).

least one invited listener since the organizer would have terminated the call if no invited visitors attended.

191. TeamExtremeTraining.com also sponsors a webinar conference call and web presentation entitled “Mission to Ignition Webinar.” TeamExtremeTraining.com, through its website and through other methods, invites the public to join “GoToMeeting” at gotomeeting.com/register/521712548.

192. Each Webinar involved a telephone and internet presentation through a web server located at IP address 216.115.208.197 in California.²⁸ The Presidential and Executive Directors currently sponsor two websites that support the pyramid: PlugIntoIgnite.com and TeamExtremeTraining.com. Both websites are hosted in Utah.²⁹ The purpose of each was and is to promote the pyramid.

193. These Mission to Ignition Webinar conference calls and web presentations occurred on the following Sundays: February (2009) 10, 17 and 24; March (2009) 3, 10, 17, 24 and 31; April (2009) 7, 14, 21 and 28; May (2009) 5, 12, 19 and 26; June (2009) 2, 9 16 and 23.

194. In total, there have been twenty Mission to Ignition Webinar conference calls to date. Each organizer and invited listener in these Webinar

²⁸ See <http://www.ip-adress.com/whois/www.gotomeeting.com> (last visited on Sep. 23, 2009) (showing that the host of GoToMeeting is in Goleta, California).

²⁹ See <http://www.ip-adress.com/whois/plugintoignite.com> (last visited on Sep. 23, 2009) (showing that the host of PlugIntoIgnite.com is in Orem, Utah); <http://www.ip-adress.com/whois/www.teamextremetraining.com> (last visited on Sep. 23, 2009) (showing that the host of TeamExtremeTraining.com is in Orem, Utah).

conference calls used the “wire,” *i.e.*, a telephone and the internet. On each Webinar, Betts alleges that there was at least one organizer and at least one invited listener and viewer on the conference call since if no invited visitors attended, the organizer would have terminated the call and the GoToMeeting. Specifically, a GoToMeeting program shows the organizers the number and names of the participants.

7.6 TeamAssist.biz.

195. Mike Jolly and Jerry Scribner, both “Senior Directors” from Houston, Texas administer TeamAssist.biz, which is hosted in Arizona.³⁰ Jolly and Scribner maintain, finance and provide content for TeamAssist.biz. Jolly and Scribner host their “LEARN, DO & TEACH” weekly conference calls that are recorded and available on TeamAssist.biz. The purpose of these conference calls is to bring new investors into the pyramid and to sponsor, support and assist others to do the same. The following telephone conference calls occurred on the dates stated below, and each included Jolly and Scribner:

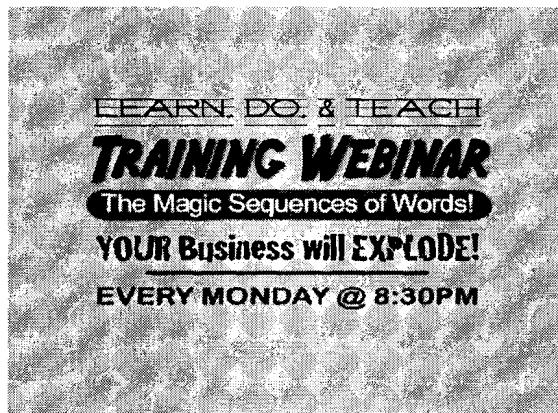
- a. September 21, 2009 Senior Directors Jolley and Scribner.
- b. September 14, 2009 Senior Directors Jolley and Scribner are joined by Executive Director Wendell Campbell.
- c. September 7, 2009 Senior Directors Jolley and Scribner are joined by Executive Director Wendell Campbell.

³⁰ See <http://www.ip-adress.com/whois/teamassist.biz> (last visited on Oct. 9, 2009) (showing that the host of PlugIntolgnite.com is in Scottsdale, Arizona, Utah).

d. August 31, 2009 Senior Directors Jolley and Scribner. This week they focus on how to RAMP-UP your success rate by bringing in an EXPERT!

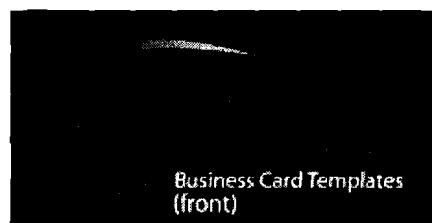
e. August 24, 2009 Senior Directors Jolley and Scribner are joined by Executive Director - Wendell Campbell.

196. TeamAssist.biz contains this advertisement for Jolly and Scribner's weekly conference calls which occur every Monday at 8:30 p.m.:



197. The September 21, 2009 conference call invited listeners to attend several speeches that Swagerty was giving in Houston that week. Either Jolly or Scribner expressly stated that he was not focused on getting energy customers for Stream.

198. TeamAssist.biz is expressly endorsed by Ignite and contains this Ignite logo:



TeamAssist.biz also links to PlugIntoIgnite.com.

7.7 TeamInferno.com.

199. Rose administers TeamInferno.com, which is hosted in Washington.³¹

The purpose of this website is to bring new investors into the pyramid and to sponsor, support and assist others to do the same. The website contains links to IgniteInc.com where visitors can find an Ignite Opportunity meeting in Texas or Georgia. It also contains links to PlugIntoIgnite.com and TeamAssist.biz.

200. TeamInferno.com invites visitors to attend TeamAssist.biz webinar conference calls on Monday nights at 8:30 p.m. The calls are available to anyone that telephoned (402) 237-2020, a Nebraska number, and enters Access Code 264255#.³² A visitor can join the webinar by <https://www.callinfo.com/prt?ac=2179986&an=8667401260&host=readytalk>.³³

7.8 BonsEnterprises.ws.

201. Kash Konnestions administers BonsEnterprises.ws, which is hosted in New Mexico.³⁴ Kash Konnestions maintains, finances and provides content for BonsEnterprises.ws. The purpose of this website is to bring new investors into the

³¹ See <http://www.ip-adress.com/whois/teaminferno.com> (last visited on Oct. 9, 2009) (showing that the host of TeamInferno.com is in Bellevue, Washington).

³² See <http://www.bennetyee.org/ucsd-pages/area.html> (last visited on Oct. 9, 2009) (showing that area code 402 is in Omaha/Lincoln, Nebraska).

³³ See <http://www.ip-adress.com/whois/callinfo.com> (last visited on Oct. 9, 2009) (showing that the host of callinfo.com is in Denver, Colorado).

³⁴ See <http://www.ip-adress.com/whois/bonsenterprises.ws> (last visited on Oct. 9, 2009) (showing that the host of BonsEnterprises.we is in Calsbad, New Mexico).

pyramid and to sponsor, support and assist others to do the same. It touts the pyramid by promising “\$8,360.00 IN RESIDUAL INCOME A MONTH FROM THE COMFORT OF YOUR HOME!” and suggests that visitors can “Become Our Next Millionaire.” BonsEnterprises.ws also contains a link to <http://www.kashkonnections.igniteinc.biz>, where visitors can purchase the Services Program.

202. BonsEnterprises.ws provides numerous video presentations that include Domhoff, Dyer and Swagerty. It also provides audio clips of presentation by Domhoff, Dyer, Fisher, Hedge, Lucia, Stout and Swagerty,

203. The site also invites visitors to attend Ignite Opportunity meetings in the following Texas cities: Abilene, Alice, Arlington, Austin, Brownwood, Clifton, Corpus Christi, Dallas, Del Rio, Denison, Denton, DeSoto, Duncanville, Eagle Pass, Euless, Farmers Branch, Fort Worth, Gainesville, Grapevine, Harlingen, Houston, Ingleside, Jacksonville, Katy - West Houston, Killeen, Laredo, McAllen, McKinney, Mesquite, Midland - Odessa, Nacogdoches, North Dallas, Oak Cliff, Palestine, Paris, Pearland, Pharr, Plano, Pleasanton, Richardson, Richland Hills, Round Rock, Rowlett, San Angelo, San Antonio, Sherman, Temple, Tyler, Uvalde, Victoria, Waco and Wichita Falls.

204. BonsEnterprises.ws also invites visitors to attend Ignite Opportunity meetings in the following Georgia cities: Athens, Atlanta, Atlanta, Buckhead,

Brunswick, St. Simons Island, Cumming, Fairburn, Griffin, Kennesaw, Lake Lanier Islands, Lilburn, Lithonia, Locust Grove, Macon, Marietta, McDonough, Newnan, Peachtree City, Rome, Roswell, Savannah and Valdosta.

7.9 IgniteOnline.Webex.com.

205. Dyer's third internet incarnation is IgniteOnline.Webex.com. He, and the other Presidential and Executive Directors have sponsored the following "Webex" meetings, each requiring a person to participate by phone and internet:

- a. May 30, 2009, "Who wants to go MD???"
- b. May 2, 2009, "TEAM EXTREME TRAINING – 2009."
- c. March 7, 2009, "30 DAYS TO MD, WHAT A BLAST!!!"
- d. February 7, 2009, "ROAD TO IGNITION 2009."

206. Dyer is not acting alone with the Presidential and Executive Directors. Ignite and Stream fully support his and the Presidential and Executive Directors' efforts.

- a. IgniteOnline.Webex.com is copyrighted as follows: "© 2009 Stream Gas & Electric, LTD. All Rights Reserved."
- b. Ignite and Stream allow Dyer and the Presidential and Executive Directors to use their logos and trademarks, specifically the following, which links directly to IgniteInc.com:



- c. The site also provides this service mark:

Turning Energy Into IncomeSM

7.10 Ignite's "Turning Energy into Income."

7.10.1 Contents of the "Turning Energy Into Income" box.

207. Ignite sends all new Directors a red box of materials called "Turning Energy Into Income" (the "Red Box"), which contains the following:

- a. a welcome letter from Chris Domhoff, Founder, Ignite;
- b. "Proven Results: Ignite and Stream Energy," an explanation of Stream Energy's financial success from 2005 to the present;
- c. a packet of handouts explaining the Services Program;
- d. "The Compensation Plan";
- e. "EMPOWER," an apparent magazine priced at \$4.95 with a "Free Dual Disc" that contains various presentations explaining the Services Program (which appears in the form of a mailer);
- f. "The Power Plan Training Workbook – *The Proven Way To Start Your Ignite Business!*";
- g. "The Power Plan Training DVD";
- h. Ignite's "Policies and Procedures"; and
- i. "Independent Associate Application and Agreement."

Ignite sent Eugene Robison, a citizen of Texas, two Red Boxes by United Parcel Service ("UPS"). Upon information and belief, all individuals that have invested in the Services Program and joined the pyramid at least since January of 2009 have received the Red Boxes by UPS from Ignite.

7.10.2 The Workbook.

208. The Power Plan Training Workbook (the “Workbook”) provides instructions for new Directors in the business of the pyramid. The first thing the Workbook instructs a new Director to do is to become a “Qualified Director” and “get paid on your personal [Directors].” As the Workbook materials state, “[u]ntil you are qualified to get paid there is no reason for you to do anything else in your business. Make this your #1 priority. And by-the-way, completing Phase I will also trigger your first check.”³⁵ The Workbook then explains “how to start sponsoring associates and build your team.”

209. The Workbook also requires a director to commit that they will follow the Power Plan System:

Follow the System – Achieving success in your Ignite business is very simple; follow the system provided in the Power Plan Workbook. The Power Plan will work if you work the Power Plan. Follow the system and you will have the experience of the entire Ignite leadership as your guide. Change the system and you lose those benefits. In other words, don’t try to reinvent the wheel. ***You are paid to imitate not to create.***

210. The Workbook warns that “the fastest way to slow down your growth is to change or add something to the system; so don’t do it.”

211. The Workbook also warns “don’t talk to anyone about your new business yet!” Instead, the Workbook makes clear that the newly minted Director

³⁵ Webster, 79 F.3d 782 (noting that “Omnitrition encouraged [Webster] to “get a supervisor as soon as possible”).

is not to explain the program to anyone, instead he is to get potential recruits to attend meetings, called an “Ignite Opportunity”:

Step 8 – Setting Appointments

Learning how to set appointments to see the Ignite Opportunity is critical to growing your business. *Your #1 objective is to set appointments with the people on your contact list so they can see the Ignite business presentation.* If you’re not getting people in front of the presentation then you’re not doing the business.

The biggest mistake new associates make is to say too much while inviting a contact to see a presentation. The purpose of the “invitation” is only to set an appointment to see a “presentation”; not to answer questions or explain the business. That will come during the presentation. When you mix the invitation with the presentation, we call that falling in to the “Valley of Death”; and it’s hard to recover once you find yourself there. So always keep the invitation separate from the presentation. By focusing on setting an appointment and avoiding distractions you will keep yourself out of the “Valley of Death” and see your number of appointments increase dramatically.

212. Indeed, the Director’s role in getting others to invest into the Services Program is all but completely passive. The Workbook instructs the Director to bring qualified recruits to see the Ignite Opportunity presentation, not to sell the Ignite Services Program:

It will help you to remember that you are in 100% of the sorting business, not the selling business. In other words, you are not trying to “sell” Ignite to anyone. They will sort themselves in or out of the business once they see a presentation and have 100% of the information necessary to make a decision. It’s usually a timing thing for most people. What you have to do is be strong in your belief that no one can make a decision until they have seen a full business presentation. Then it’s up to them to decide what they want to do.

213. The Workbook gives the director a number of ways to invite potential recruits to an Ignite Opportunity meeting.

The Invitation

The best approach to invite a contact to see the Ignite Opportunity is a direct one such as, “Let’s get together, I have a business deal/venture I’d like to get your opinion on.” Everyone likes to give their opinion.

Money is always an attention getter so you might say, “I’ve found a way to get paid on thousands of energy bills every month. Let’s get together, I’d like to get your opinion on it.” Or “Do you ever look at new ways to make extra money?”

Often people will want to know what it is, so don’t be evasive. “The name of the company is Ignite and it’s about deregulated energy. Let’s get together and I’ll show you how to get paid on thousands of energy bills every month.”

What you say is really not as important as how you say it. Enthusiasm is your greatest asset. If you’re excited then your contact will be excited too. Again, just get him or her in front of a presentation and the opportunity will sell itself, just like it did for you. And remember to have a sense of urgency.

214. The Workbook emphasizes that the Director’s priority should be to get new recruits to invest in the Services Program, not sign up for Stream energy. As Ignite states, if a person does not want to attend an Ignite Opportunity presentation, “[d]on’t forget to ask him or her to be your customer if he or she doesn’t want to be an associate. Go for an associate first, but he or she can always get started as a customer.”

215. The Workbook stresses that the real financial benefit that a Director receives is from getting new associates and a few customers. The Workbook states “But the genius of the Ignite concept is that you only have to enroll a few customers yourself, yet you can get paid on hundreds and even thousands of customers as a result of a team of people enrolling just a few customers each, just like you.”

7.10.3 *Empower* magazine - a paid advertisement masquerading as a legitimate magazine.

216. Ignite purchased an “*EMPOWER*” magazine edition in 2009. *EMPOWER* is given to prospective recruits and, from its appearance, looks like an independent magazine that just happens to feature Ignite. The *EMPOWER* edition purchased by Ignite contains many articles about Ignite, but also contains a few advertisements for noncompeting products as well as charities so as to appear to be an independent publication.

217. The *EMPOWER* edition, in fact, is nothing more than an advertisement paid for by Stream, Ignite or both. The edition contains promotional statements by Stream, Ignite and all other defendants. It also includes a “Free Dual Disc Inside.”

7.10.4 “The Power to Do More” DVD.

7.10.4.1 A presentation showing the wealth that one can earn by buying the Services Program.

218. The video presentation builds around a plot centering on a middle-aged man (a paid announcer) and starts the night before his retirement party. He is retiring because of his success with Ignite. He states that "It's simple, easy and generates recurring income for me and my family every single month."

219. The announcer explains that Stream has grown to over \$1 billion in total revenues. He then states that Stream "still ha[s] only a small percentage of the multi-billion dollar energy market. I guess you could say it's the best of both worlds, a proven track record in a market that's still intact."

220. The presentation also shows a number of Presidential and Executive Directors at a hotel retreat in Mexico. These individuals are shown by the pool, the beach and at a lavish party. It shows that these Presidential and Executive Directors are successful and wealthy.

221. Stout, a Presidential Directors, says this on the video:

We are a licensed retail electric provider. We are a licensed natural gas marketer. When you talk about credibility, talk about integrity, we can look people in the eye and say, look we are licensed with the government to provide a commodity to the consumer. We are an energy company, that's what we are.

Stout continues:

I got involved with Ignite quite frankly to make an extra \$1000 a month. That was the difference between us living in an apartment and getting to buy a house. I mean that was the difference. I had no idea what we would be blessed with through this company so it's been pretty phenomenal.

222. Steve Fisher, a Presidential Director said this on the video:

It's a huge thing for us to have that kind of credibility behind us so when we go talk to our friends and our family and people that we do business with, we've got a company behind us that has a proven track record of success.

And we were able to take five vacations this year and nice vacations, something we would have never been able to do in the past but we created family memories with our daughter before she leaves to go to college and it's just been, it's been an incredible life change for us.

223. Greg McCord, a Presidential Director said this on the video: "The recognition from the outside, not just a biased opinion on us or other associates as coming from the outside is really for a new associate perfect timing because they can hit the ground immediately with that confidence."

224. Earnest Franklin, an Executive Director, said this on the video: "We have everything in place. We'll teach you word for word, step by step, how to get your business from point A to point B."

225. Donny Anderson, a Presidential Director, said this on the video:

One of the greatest enjoyments we've had in our business is helping other people achieve success for themselves. It's clearly a business where the more you help someone else succeed, the more you are going to succeed. And that's a real special thing to be able to help someone succeed and fulfill their dreams and obligations.

226. Yolanda and Kevin Harris, Executive Directors; Hedge, a Presidential Director; David Regis, an Executive Director; and Swagerty, a Presidential

Director also participated in the “Power to Do More” presentation along with Domhoff.

227. The paid announcer, near closing, says this:

Ignite has a training system that anyone can follow. Why don’t you begin by taking a look at that starter kit. A great thing about Ignite is that you are in business for yourself but not by yourself, you can make your own schedule, work from home, and you’ve got the support of both the corporate office and the field whenever you need it. Now when Nicholas gets paid I get paid too. So you can imagine why I’m motivated to help him get off to a great start.

7.10.4.2 Fisher’s presentation promising that the Services Program is “the greatest financial opportunity in America today.”

228. The DVD also contains video of Fisher, a Presidential Director, making a presentation to potential recruits. Fisher states that he decided to invest in the Services Program based on the “presentation you are getting ready to see,” even though that presentation did not exist when he invested in the Services Program. Fisher was in fact involved with Ignite at the inception of the pyramid and has, by that fact and his experience, a detailed understanding of the pyramid.

229. Fisher states that “You’ll see over the next few minutes how Ignite has helped thousands of people just like you take advantage of this energy deregulation and provide what we believe is the *greatest financial opportunity in America today.*” For Fisher, there is no doubt this statement is true for him and other Presidential Directors. However, Fisher, Stream, Ignite and all Presidential

and Executive Directors know that for most persons an investment in the pyramid will fail.

230. Fisher represents that an investment in the Services Program allows an investor to make money based on the labor of others. As Steve says,

At Ignite we only do two simple things. We enroll a handful of customers through our warm market, people that we know, people that we do business with, and then we teach others how they can get paid to do the same. We have a very simple marketing plan called 3 and 10. That's three business associates and ten customers and by duplicating this 3 in 10 model you can end up getting paid on hundreds or even thousands of energy bills each and every month. It's that simple. Now, to start your business with Ignite is \$329, with that you get all the tools and training and support that you need to successfully launch your business.

231. Fisher invites recruits to sign up for an Ignite Homesite. Other than allowing the Director's potential recruits to sign up, the recruits:

see a twelve minute video flash presentation that's just a slam dunk and they can join as business partners right on your website where you get credit for it. This website is \$19.95 [now \$24.95] per month and it's the only overhead that we have as Ignite business owners.

232. Fisher represents that the Services Program offers the potential to be paid large sums of Residual Income:

When [you] get those four customers in thirty days, you're paid that \$100 bonus. Now we use three as an example because that completes what we call the power unit which is you simply getting those three business partners and those ten energy accounts. By duplicating that over and over and over again you can end up getting paid on literally thousands of energy bills every month.

233. Thus, a Director is getting “paid on forty customers each and every month even though [he] personally ha[s] only gathered ten.” Fisher does not disclose that between July 2007 and June 2008, 25.29% of the investors in the Services Program never received any income. He does not disclose that during the same months in 2005-2006, 35.55% of investors received nothing. He does not disclose that Domhoff, a founder of Ignite, stated that 20% of investors never recoup their investment (and that statement is itself untrue as it greatly overstates the percentage of investors that recover their investment).

234. Fisher states that, as a Managing Director, you get more from your investment, “you’re paid that \$75 leadership bonus for every one that joins your Managing Director organization below that first level and gathers just two energy accounts in their first thirty days and these leadership bonuses are paid to unlimited depth.”

235. Fisher continues his “unlimited depth” promise by taking it even further. As an Executive Director:

you’re paid an additional \$225 leadership bonus, that’s \$325 for everyone you personally sponsor, \$225 for every one that joins your executive director organization below that first level and gathers those two energy accounts. And guys the significance of these leadership bonuses are in the fact that they are paid to unlimited levels. ***That’s geometric growth to infinity.***

236. Fisher is promising a benefit from a very rapidly growing number of new investors in the Ignite Services Program that will grow to infinity.

237. Fisher then invites individuals to invest in Ignite. He states that the investment offers “incredible income potential” when he knows that to be untrue.³⁶ He invites all that are “about to jump out of [their] skin because of what [they] just saw” to invest in the Services Program:

Just go the website of the person that invited you to look at Ignite and click on join Ignite and you can enroll as a director right on their website and you can immediately set up your own Ignite Homesite right then and be the first one to go to your website and become a Stream Energy customer where you get credit for it and I want to challenge you, get plugged into training as soon as possible

7.11 Links to Ignite Homesites proliferate across the World Wide Web.

7.11.1 Website.

238. As shown, Stream, Ignite, the Operators and the Presidential and Executive Directors stress the importance of recruiting new individuals to invest in the Services Program and join the pyramid. Members of the pyramid market the Services Program to the public through the internet. Examples above of internet marketing websites created by the Presidential and Executive Directors include PlugIntoIgnite.com and TeamExtreamTraining.com.

239. Other members of the pyramid have copied the examples set by the Presidential and Executive Directors. For example, a number of Directors are attempting or have attempted to get others to join their downline through *Yahoo!*

³⁶ This is no more true than when Swagerty promoted Excel as a “tremendous financial opportunity,” see ¶90.

Groups and a variety of other websites. Some have created their own websites. All of these individuals subscribe or subscribed to an Ignite Homesite. They use these other websites to draw potential investors to their Ignite Homesite.

240. These various websites demonstrate two important features of the pyramid. First, of the many persons who made the effort to advertise for investors in the Services Program, only a handful are still maintaining their Ignite Homesites. Second, the representations that Stream, Ignite, the Operators and the Presidential and Executive Directors have made when selling the investment in the Services Program are being repeated throughout the internet. Stream, Ignite, the Operators and the Presidential and Executive Directors have done nothing to stop the proliferations of their representations. Obviously, as stated above, they freely make these representations to gather new investors and encourage others to do the same. As such, the representations that the Directors make in their various uses of internet websites to attract investors are directly attributable to Stream, Ignite, the Operators and the Presidential and Executive Directors to an equal degree as if they had written the words themselves and published them on the internet.

7.11.2 *Yahoo!* links.

241. *Yahoo!* Group “jdac_nol,” created in about 2008, attracted 2 members. Johnathan (214-715-2329) (a Texas number) made this statement: “We are committed to helping others gain financial Freedom through true residual

income while staying at home and enjoying the family through HOME BASE BUSINESS www.jdac.igniteinc.biz.” This *Yahoo!* Group provides a link to the user’s live Ignite Website.

242. *Yahoo!* Group “Igniteurfuture,” created in about 2007, attracted 9 members with this statement:

Owning your own business by helping customers save 10-20% on their electric bills in Texas. Start your own home based business now! We will be seeking gas customers and business partners in Georgia by mid-summer, 2007. The next 2 states we will be going to are New York and Illinois! We are the 5th largest Retail Electric Provider (REP) licensed by the Public Utility Commission of Texas (PUCT) with annual sales of nearly half a billion dollars! This is a Multi Level Marketing(MLM) business with a simple business plan to save money on your electric or gas bills. You can earn money on thousands of other electric and/or gas customers. You do not have to get thousands of customers in this business. You can get started by just helping yourself and your family and friends. We incorporate a simple business plan of 3 & 10. Get 10 customers and 3 business partners. Teach and help your business partners the 3 & 10 plan and you are on your way to building residual income that can give you extra money each month or life-changing money! Remember that everyone needs electricity and/or gas! To get more information and sign up for energy: <http://dthomps.igniteinc.biz> To get more info and sign up for your own business: http://dthomps.igniteinc.biz/opp_presentation.asp This has been a life changing adventure for many and while the business plan is simple, you must work consistently and talk to everyone you meet about this golden opportunity. We hope you join us for the ride of your life!

This *Yahoo!* Group provides a link to the user’s dead Ignite Homesite.

243. *Yahoo!* Group “texansletsmakesomeseriousmoney,” created in about 2007, attracted 7 members with this statement:

Are you like me tired of searching the internet for a great opportunity to make money. Well guess what I Have Found It. If you are a go getter waiting to get rewarded monetarily wise for all your hard work then this is for you. Set your own hours, the harder you work the more money you can make. ITS GREAT at last IGNITE is here to make all our dreams come true. So dont waste any more time and lets get started. I will help you the whole way. Email me at fflores@gkcl.net and lets start making some serious money. VIST MY WEBSITE FOR MORE INFO AT WWW.FIDELFLORESIII.IGNITEINC.BIZ

This *Yahoo!* Group provides a link to the user's dead Ignite Homesite.

244. *Yahoo!* Group "thepowervine," created in about 2008, attracted 3 members with this statement:

You talk to friends and family most days. You might even be one who can strike up conversations with strangers anywhere. How hard is it to discuss the cost of electricity? How about just simply suggesting they switch to Stream Energy where they might just save some money on their Gas (Georgia) or Electric (TX) bill? This is the easy job that everyone is looking for. Tell people how to save and switch just like you would with any other company you truly appreciated... except here you make money for it! *** <http://thepowervine.igniteinc.biz> *** Go to the site and see what you can make by helping others save!

This *Yahoo!* Group provides a link to the user's dead Ignite Homesite.

245. *Yahoo!* Group "keyopportunity," created in about 2008, attracted 1 member with this statement:

Live in Texas and want a cheaper electric bill or in Georgia and want a cheaper gas bill then Holla at you boi and check out my site. This is not spam, just trying to help others make in todays high priced World. Save money this year just go to <http://solomonkey.igniteinc.biz> Wanna join me and help others save just let me know and you to can have your own site and start help others overcome this energy crisis.

This *Yahoo!* Group provides a link to the user's dead Ignite Homesite.

7.11.3 Various other websites linked to an Ignite Homesite.

246. SearchSight.com, <http://searchsight.com/2560530-info.html>. On this web page, LaVerne (254-628-8268) (a Texas number) has an ad that directs visitors to <http://www.myhome.igniteinc.biz>, and states:

English Español Home Opportunity Energy Company Request Info
Join Ignite This Site Hosted by: LaVerne Davis 254-628-8268 Email
Find out how you can make money on your energy bill. Wouldn't you
like to get paid every time you turn on the power? Learn how you can
save money on your energy bill....

The ad contains a link to the advertiser's live Ignite Homesite.

247. Uneed Corporation (404-909-1160) (a Georgia number) pays Google to refer recruits to its Ignite Homesite. The Google ad states "Big Ignite Opportunity With Savings on TX & GA Energy Bills!" The ad contains a link to the advertiser's live Ignite Homesite.

248. Tribe.net. Marissa (832-217-8956) (a Texas number) advertises to sell the Services Program. She attracted "Chris" who stated he thought Ignite was a "Great Opportunity." The ad contains a link to the advertiser's live Ignite Homesite.

249. Tribe.net. Thom (214-683-8466) (a Texas number) (powerfortexas.igniteinc.biz, which can be also be accessed through his second website, energypeople.us) advertises to sell the Services Program. Thom represented that Ignite was an "excellent business opportunity. Sell nothing new,

just what you already use.” The ad contains a link to the advertiser’s live Ignite Homesite.

250. Tribe.net. “Alice” in Dallas advertises to sell the Services Program and states:

lowest electric rates in texas, excellent service

Is your electric bill high? Compare and see for yourself how you can save money by making the switch to Stream Energy. Go to our wed site Texasbright.igniteinc.biz If need any more information call Alice Bowman at 817 847 7214 or 817 233 0330. [Texas phone numbers)Lets bring down the cost of electric. - alice , posted 04/01/05

Alice’s statement is false because Stream does not have the lowest electric rates in Texas. The ad contains a link to the advertiser’s live Ignite Homesite.

251. Answers.yahoo.com. Joe (214-448-0499) (a Texas number) advertises to sell the Services Program and states: “Just doing my part to help people add a little scratch to their bank account and save a lil bit on their electric bill.” Joe refers visitors to 1972.igniteinc.biz. The ad contains a link to the advertiser’s live Ignite Homesite.

252. Clipmarks.com. PUZZLERF advertises to sell the Services Program and states:

New and cheaper priced utilities for Texas and Georgia.

igniteinc.biz — Ignite offers a cheaper alternative to your current electric provider in Texas, and natural gas in Georgia. You can save a couple bucks on your monthly bill. Or join the affiliate program to earn money while you help your friends save money. Just type

PUZZLERF in the blank field and hit submit to check it out. Redirect caused problems with digg

The ad refers visitors to www.pharries.igniteinc.biz, the advertiser's live Ignite Homesite.

253. Craigslist.com. Sam (214-257-0500) (a Texas number) describes himself as an "IGNITE Independent Associate" who is a member of the ""EmPower Group." His email is power4me2@gmail.com and his Ignite Homesite is power4me2.igniteinc.biz. Sam's ad states:

We Are Looking For Housewives, College Students, Retirees, Full-Time/Part-Time Employees, Business Owners Or Anyone Who Is Interested In Owning There Own Business!

We Need Business Partners In Texas & Georgia! Stop Living Pay Check To Pay Check! Let Me Show You How To Add Another Source Of Income From The Very Profitable Energy Industry.

Anyone Can Do This Business! You Can Do It From Home, Work, On The Road, Part-Time or Full-Time Your Choice! You Have Total Freedom To Run Your Business As You Wish!

The Franchise Fee To Start Your Own Energy Business Is \$329 And For That Fee You Get Access To A Multi-Billion Dollar Electric Market In Texas & Natural Gas Market In Georgia!

I Am An IGNITE Independent Associate Who Sells Residential/Commercial Electricity In Texas & Natural Gas In Georgia.

- IGNITE Inc. Has Paid Over 100 Million Dollars In Commissions To Its Business Partners Since It Was Started In 2005!

- You Make 3 Types Of Income With Your Energy Business Residual Income (which is the most important), Immediate Income & Leadership Income.

If You Are Seriously Looking For A Recession Proof Business Then You Have Found It! The Information Is Free To See!

Visit My Website www.power4me2.igniteinc.biz for all the details. Please Click On The Opportunity Tab And Watch All The Videos.

After You Have Visited My Website And Would Like Additional Information. Please Contact Me Via Email So I Can Provide You With Information On One Of Our "Business Get Togethers."

254. Gracedirectory.com. Rich and Leslie (770-962-2848) (a Georgia number) advertise "**Employment:** Full-Time/Part-Time. This is an entrepreneurial opportunity with low startup expenses. It is possible to earn residual income on 1,000's of energy bills. To check out this business go to: richleslie.igniteinc.biz."

They also have Ignite's permission to use this logo:



The ad contains a link to the advertisers' live Ignite Homesite.

255. Sta.rtup.biz. Benjamin states "!!Urgent!! Business Partners needed in the Energy Business. Call 706-993-6434 (a Georgia number). Speak with

Independent Associate or go to www.roquegroup.igniteinc.biz." The advertisement contains a link to the advertiser's live Ignite Homesite.

256. Twitter.com. Louis (713-303-716) (a Texas number) offers residents in Texas low power rates, and residents in Georgia low gas rates through his Ignite Homesite, LPorterSr.igniteinc.biz. Louis continues to operate his Ignite Homesite.

257. Myspace.com. Alicia (325-396-5600) (a Texas number) advertises the Services Program, provides links to her Ignite Homesites (GetBeachMoney.IgniteInc.biz, hequan.igniteinc.biz and SwitchOnStreamEnergy.IgniteInc.biz) and states:

If Not Ignite, What? If Not Now, When? "No Excuses, No Fear...FREEDOM!"-Presley "The Coach" Swagerty The #1 MONEY EARNER IN IGNITE GO TO MY WEB-SITE www.SwitchOnStreamEnergy.IgniteInc.Biz Join Ignite and Be A Customer What Is It? Ignite is a Start Up Energy Business. Why Is It Good? You Can Make Money and Get Customers To Save On Energy Bills Every Month. How is This Possible? Everybody Pays Their Electric Bill Before Anything Else, This Creates Residual Income For Everybody Who Knows How To Work The System. Be In The Group That Is Glad They Did Or In The Group That Wished They Had. You Can Make Excuses Or You Can Make Money, You Can't Do Both. Whether Or Not You Can Or Can't, Either way You Are Right Want Information? Email: GetBeachMoney@Gmail.Com

Alicia's Ignite Homesite is live.

258. Craigslist.com. Gary (469-569-0570) (a Texas number) advertises the Services Program (a "Recession Proof Business is Expanding!! - \$329"),

provides a link to his Ignite Homesite (SwitchOnStreamEnergy.IgniteInc.Biz) and states:

ATTENTION: Looking For A Recession Proof Business?? Stop Living From Pay Check To Pay Check!! Want To Help Others AND Make Money?

Housewives, College Students, Retirees, Full-Time/Part-Time Employees, Business Owners And All Who Are Interested In Owning Their Own Business!

Business Partners Needed With Contacts In Texas & Georgia! I Will Show You How To Add Another Source Of Income From The Energy Industry.

All Homes and Businesses Use Electricity. And, in Georgia, You Can Hook Up People With Natural Gas. When They Do, Shouldn't You Profit?? I Can Show You How To Make Money Turning On People's Lights and Gas!!

Anyone Can Do This Business!! You Can Do It At Home, On The Road, Part-Time or Full-Time.

STREAM ENERGY Is The Parent Company Of IGNITE, Inc & IGNITE, Inc Is The Marketing Arm Of Stream Energy.

I Am An IGNITE Independent Associate Who Sells Residential/Commercial Electricity In Texas & Natural Gas In Georgia. You Have Heard About Stream Energy. I Can Show You How To Make Money Turning On People's Lights and Gas!!

* * *

Visit My Website SwitchOnStreamEnergy.IgniteInc.Biz for all the details. Please Click On The Opportunity Tab And Watch All The Videos.

After You Have Visited My Website And Would Like Additional information, Please Contact Me So I Can Provide You With All the Information On How You Can Join Us And Change Your Future."

Get Paid When You Turn On The Lights and Gas!!

Gary's Ignite Homesite is live.

259. Kudzu.com. Mary (314-477-1230) (a Missouri number) advertises the Services Program, provides a link to her Ignite Homesite (mclong.igniteinc.biz) and states:

Show people, just like you, how to make money and savemoney on their utility bill. We offer gas in Ga. and electric in Tx.

Visit my website at: www.mclong.igniteinc.biz

Get paid immediate income for helping you and your customers save money on their utility bills. As an Independent Associate, let me show you how this is possible. Independent entrepreneurs are offered a very attractive business opportunity ? one that offers immediate income, leadership bonuses and unlimited residual income.

Mary's Ignite Homesite is live.

8. THE PLAINTIFF.

260. In 2008, Betts first heard of Ignite from Dana Weimer, a woman who attended his church. She mentioned she had received an email about a new natural gas provider coming to Georgia and all she knew about it was on its website. Betts went to the website, IgniteInc.com, and concluded that it was a multilevel marketing program selling natural gas. At that time, Georgia residents could not join Ignite.

261. Eventually, Betts signed up with Ignite under Dana Weimer and paid \$329 to the pyramid. Betts understood from Dana Weimer that she was free to sign as many people as she wished in Tennessee just five miles north of Betts' home. Dana Weimer was reporting what David and Ramona Werst of Mertzon, Texas, her sponsors, told her. Ramona Werst later told Betts that Tennessee was open so that everyone had the same opportunity to sign up associates.

262. Betts attended a function in Atlanta a few days before Ignite opened in Georgia. Thereafter, Betts attended a meeting in Chattanooga hosted by David and Ramona Werst. The Wersts gave the Ignite presentation and explained how they had helped Dana to reach her bonus with customers from Texas, implying they would do the same for the others at the meeting.

263. The Wersts have apparently failed in their Ignite business. The link to their business, <http://powersystemsprospecting.com/about-me/>, is now dead and available only on Google as a cache.

264. Betts had one person who signed up under him and he eventually made his first bonus of \$200.00. He sold Stream's gas to one retail customer. Betts also signed up for an Ignite website and Ignite charged him \$19.95 for approximately nine months, for a total cost of \$179.55.

9. CLASS ACTION ALLEGATIONS.

265. Betts brings this suit as a class action pursuant to Federal Rule of Civil of Procedure 23 (b) (1-3).

266. Betts alleges that the approximate size of the class exceeds 10,000 individuals and joinder of all class members in a single action is impracticable.

The class is defined as

All citizens of Georgia that purchased the Ignite Services Program and who are not, as of the filing of this complaint, a Presidential or Executive Director. Excluded from the class are the defendants, the alleged co-conspirators (¶298) and their spouses.

267. Betts will fairly and adequately represent the interests of the class because his claims are typical of those of the class and his interests are fully aligned with those of the class. Betts has retained attorneys that are experienced and skilled in complex class action litigation.

268. Class action treatment is superior to the alternatives, if any, for the fair and efficient adjudication of the controversy alleged herein, because such treatment will permit a large number of similarly situated persons to prosecute their common claims in a single forum simultaneously, efficiently and without unnecessary duplication of evidence, effort, and expense that numerous individual actions would engender.

269. Here, the Court's adjudication of Betts' claims would, as a practical matter, be dispositive of the interests of the other members not parties to the

Court's individual adjudication or would substantially impair or impede their ability to protect their interests. FED. R. CIV. P. 23 (b)(1). For example, if Betts' proves that the defendants operate a pyramid scheme in violation of the RICO Act, that finding would be binding on all defendants and therefore the plaintiffs.

270. The defendants have acted on grounds that apply generally to the class, *i.e.*, running a pyramid scheme, so that final injunctive relief or corresponding declaratory relief is appropriate respecting the class as a whole. FED. R. CIV. P. 23 (b)(2). If Betts proves that the defendants operate a pyramid scheme in violation of the RICO Act, the Court should enjoin the defendants from operating a pyramid scheme in the future.

271. This case presents questions of law or fact common to class members that predominate over any questions affecting only individual members, and a class action is superior to other available methods for fairly and efficiently adjudicating the controversy. FED. R. CIV. P. 23 (b)(3).

272. The questions of law and/or fact common to the class, including but not limited to:

- a. Whether the defendants were operating an unlawful pyramid scheme;
- b. Whether class members paid money to the defendants in exchange for (1) the right to sell a product, the Services Program, (2) the right to sell gas and electricity to their downline, all of which is income unrelated to the sale of the product to retail consumers;

- c. Whether class members were required to make an investment into the pyramid scheme;
- d. Whether the defendants engaged in acts of mail and/or wire fraud in direct violation of RICO; and
- e. Whether the defendants' conduct has caused injury to the business or property of Betts and the class.

273. These and other questions of law and/or fact that are common to the class predominate over any question affecting only individual class members.

274. Betts's claims are typical of the claims of the class in that he became an Ignite Director because of the pyramid scheme.

275. A class action under FED. R. CIV. P. 23 (b)(3) is superior because:

- a. The class members' interests in individually controlling the prosecution of separate actions is minimal. No class member can be expected to incur the cost of attorneys' fee and cost to recover their \$329 investment in the Ignite Services Program and payments for an Ignite Homesite.
- b. The only litigation concerning a similar controversy was begun by putative class members residing in Texas. That litigation does not address the losses of Georgians.
- c. It is manifestly desirable to concentrate the litigation of the class' claims in Georgia and this district.
- d. The Court will encounter no difficulties in managing this case as a class action.

10. THERE IS NO BINDING ARBITRATION AGREEMENT BETWEEN BETTS OR THE MEMBERS OF THE CLASS AND IGNITE OR ANY OF THE DEFENDANTS.

Ignite or other defendants may claim that it or they have an arbitration agreement with Betts. However, there is no valid arbitration agreement with Betts

or any other Director. Ignite's arbitration agreement with Betts (and the remainder of the agreement) is illusory and unenforceable because Ignite retained the right to unilaterally abolish or modify the arbitration program (or any other terms of the agreement).

11. THIS COMPLAINT STATES THE COMMON ELEMENTS OF THE RICO ACT 18 U.S.C. §§ 1962(c-d).

11.1 This complaint properly distinguishes RICO “person” from RICO “enterprises”

276. RICO requires that a “person” violate its provisions.” 18 U.S.C. § 1962 (c-d). A RICO “person” includes any individual or entity capable of holding a legal or beneficial interest in property.” 18 U.S.C. § 1961 (3). Each defendant is a RICO “person.”

277. RICO also requires the involvement of an “enterprise.” 18 U.S.C. § 1964 (a-d). An “enterprise” “includes any individual, partnership, corporation, association, or other legal entity, and any union or group of individuals associated in fact although not a legal entity.” 18 U.S.C. § 1961 (5). Here, Betts alleges three “enterprises”:

- a. Ignite is an “enterprise.”
- b. Stream (SGE Management, LLC, Stream Gas & Electric, Ltd. SGE Energy Management, Ltd., Stream SPE, Ltd., Stream Georgia Gas SPE, LLC, SGE Texas Serviceco, LLC, SGE Ignite GP Holdco, LLC, SGE Texas Holdco, LLC, SGE North America Serviceco, LLC, Stream SPE GP, LLC) is an “enterprise,” specifically a *de facto* corporation acting as a single legal entity, or, alternatively, an association in fact.

- c. The “Pyramid” is an association in fact. All defendants, while not gathered under any “legal entity” operate the pyramid scheme to draw new investors into the Services Program.

278. Stream is, in part, a legitimate business engaged in the retail sale of gas and electricity. Ignite is, in part, a legitimate business engaged in the marketing of Stream’s retail sale of gas and electricity

279. RICO “persons” are liable under RICO; “enterprises” are not. Under 18 U.S.C. § 1962(a), the “person” may concurrently be the “enterprise.”

280. Under 18 U.S.C. §§ 1962(b-d), the same individual or entity cannot concurrently be a RICO “person” (*i.e.*, a defendant) and the “enterprise” underlying the RICO claim. However, under 18 U.S.C. §§ 1962 (b-d), a defendant can be both a RICO “person” and part of another “enterprise.” Thus,

- a. Ignite is a RICO “person” with respect to Stream and the Pyramid;
- b. Stream is a RICO “person” with respect to Ignite and the Pyramid; and
- c. each named Presidential and Executive Director, and each Operator, is a RICO person with respect to Stream, Ignite and the Pyramid.

11.2 The defendants engaged in a “pattern of racketeering activity” by participating in a “scheme and artifice” to defraud in violation of the mail and wire fraud statutes, 18 U.S.C. §§ 1341 & 1343.

11.2.1 The defendants’ promotion of a pyramid scheme is a *per se* scheme to defraud under the mail and wire fraud statutes.

281. The defendants have used false and fraudulent pretenses to deceive the plaintiff and the class. They have engaged in materially misleading statements of facts and nondisclosures of important facts. In all respects, the defendants have conducted their affairs unlawfully, intentionally, willfully and with intent to defraud, that is, knowingly and with the specific intent to deceive, in order to cause financial gain for themselves and for others, all to the detriment of Betts and the class.

282. First, each defendant has promoted a pyramid scheme that, by its very nature, is a *per se* scheme and artifice to defraud to obtain money by false pretenses. As detailed in this complaint, all defendants have promoted the Ignite pyramid scheme. Each of the enumerated acts of wire and mail fraud in furtherance of the pyramid scheme is an act of racketeering. The defendants' promotion of the pyramid scheme is enough to state a RICO claim based upon their pattern of racketeering.

283. Second, the defendants have defrauded investors when selling the Services Program and promoting the pyramid through numerous false statements, all to obtain profit. Examples of these statements include:

- a. Creating the false impression that Ignite's multilevel marketing program and its Services Program investment is legal. Specifically, Snyder has represented that the Texas Attorney General has "confirmed the legitimacy" of Ignite and Stream's multilevel marketing program.

- b. Creating the false impression that under the pyramid, the majority of investors will profit from their investment.
- c. Creating the false impression that investing in the Services Program is “the greatest financial opportunity in America today” and an “incredible income potential.”
- d. Creating the false impression that investing in the Services Program is a “ground floor” opportunity.
- e. Creating the false impression that investors in the Services Program can receive income for all downline associates to “unlimited depth” and that their income can grow to “infinity.”
- f. Creating the false impression that there are many available investors for the Services Program.
- g. Creating the false impression that the success stories featured by Ignite were typical or even possible.
- h. Creating the false impression that *Empower* was a legitimate magazine.

284. Third, the defendants have defrauded investors when selling the Services Program and promoting the pyramid and omitting material facts for the purpose of and with the intention of defrauding by obtaining money from the investors. Examples of these omissions include:

- a. Failure to reveal that Ignite’s multilevel marketing program and its Services Program investment is an illegal pyramid scheme.
- b. Failure to reveal that under Ignite’s multilevel marketing program and its Services Program the majority of investors will lose their investment.
- c. Failure to reveal that between July 2005 and June 2006 and July 2007 and June 2008 the Executive Directors’ income increased by 262% while, during the same period, the Qualified Directors’ income decreased by 264%.

- d. Failure to reveal that the Texas market for the Services Program is quickly becoming saturated and that the Georgia market for the Services Program will quickly become saturated as well.
- e. Failure to reveal that Domhoff, Stream, Ignite, the Operators and the Presidential and Executive Directors expected that the Texas market for investors in the Services Program and customers would be saturated by 2007.
- f. Failure to reveal that the Texas Presidential and Executive Directors will have gathered Georgia investors in the Services Program to the loss of Georgia Directors.
- g. Failure to reveal that 25.29% of investors in the Services Program have received no income from selling the Services Program.
- h. Failure to reveal Domhoff's estimate that 20% of investors in the Services Program will not recoup their investment.
- i. Failure to reveal that the stated success and wealth that Presley and Jeanie Swagerty, Steve and Diane Fisher and Brian and Beth Lucia have earned from their investment in the pyramid is (i) no longer possible and (ii) that Swagerty and Fisher are among the top two money earners out of 110,000 Directors, or among the top .0027% of the pyramid.
- j. Failure to reveal that the *Empower* magazine used to sell investments in the Services Program was a paid advertisement and not a third party validation.

11.2.2 To execute their scheme and artifices, the defendants have used and caused to be used mail and wire communications in interstate commerce.

285. The defendants have transmitted, caused to be transmitted or invited others to transmit material, by mail or private or commercial carriers, such as UPS, for the purpose of executing their scheme or artifice to defraud in violation of 18 U.S.C. § 1341. Likewise, they have distributed the "Red Box" and "The Power

Plan” DVD by UPS (mail) to many individuals, including two deliveries to Robison. The defendants committed mail fraud even if their “Red Box[es]” never crossed a state line.

286. The defendants have transmitted, caused to be transmitted and invited others to transmit, by means of wire in interstate commerce, writings, signs, signals, pictures, or sounds for the purpose of executing their scheme or artifice to defraud in violation of 18 U.S.C. § 1343.

11.3 This complaint properly alleges a “pattern of racketeering activity” for as defined by 18 U.S.C. § 1961(5).

287. RICO requires a “pattern of racketeering activity.” A “pattern of racketeering activity requires at least two acts of racketeering activity.” 18 U.S.C. § 1961 (5). A “pattern of racketeering activity” can be past conduct that by its nature projects into the future with a threat of repetition. It can also be conduct over a closed period through a series of related predicates extending over a substantial period. Both of these apply here.

288. This complaint demonstrates that the defendants’ pattern of racketeering activity is well established. They have taken every imaginable step to sell the Services Program. They each also expect to continue to receive income from the pyramid. With each new investor, the defendants increase the value of their investment in and control of the pyramid. Even as Betts files this complaint, the defendants continue to maintain websites and schedule meetings to sell the

Services Program to others. The defendants have stated their intentions to continue to grow the pyramid in Texas, to Georgia and throughout the United States. Indeed, their conduct and growing resources show the potential for them to do so. It is certain that their conduct is a continuing threat of their racketeering activities.

12. COUNT ONE: VIOLATION OF 18 U.S.C. § 1962(c).

289. Section 1962(c) makes it “unlawful for any person employed by or associated with any enterprise engaged in, or the activities of which affect, interstate . . . commerce, to conduct or participate, directly or indirectly, in the conduct of such enterprise’s affairs through a pattern of racketeering activity.”

290. Stream, Ignite and with the Pyramid are each “enterprises” engaging in activities that affect interstate commerce.

291. Stream is associated with Ignite and the Pyramid. It conducts and participates in the operation or management of Ignite and the Pyramid through a pattern of racketeering activity, *i.e.*, conducting the affairs and supporting the acts of the pyramid scheme. Stream directs, in whole or part, the affairs of Ignite and the Pyramid, including the operation of the pyramid scheme.

292. Ignite is associated with the Pyramid. It conducts and participates in the operation or management of Ignite and the Pyramid through a pattern of racketeering activity, *i.e.*, conducting the affairs and supporting the acts of the pyramid scheme. Ignite directs, in whole or part, the affairs of the Pyramid,

including the operation of the pyramid scheme. Ignite carries out the directions of Stream.

293. The Presidential and Executive Directors are each associated with or employed by Stream, Ignite and the Pyramid. The Presidential and Executive Directors conduct and participate in the operation or management of Ignite and the Pyramid through a pattern of racketeering activity, *i.e.*, conducting the affairs and supporting the acts of the pyramid scheme. The Presidential and Executive Directors, in whole or part, direct the affairs of Ignite and the Pyramid, including the operation of the pyramid scheme.

294. Not only do the Presidential and Executive Directors have some part in the conduct of Stream, Ignite and the Pyramid, they control and direct their conference calls, websites, web presentations and speeches. Stream, Ignite and the Pyramid have authorized the Presidential and Executive Directors to direct their conference calls, websites, web presentations and speeches. Stream, Ignite and the Pyramid have authorized the Presidential and Executive Directors to direct and control the marketing of Stream's gas and electricity. Ignite and Stream have authorized the Presidential and Executive Directors to use Ignite's and Stream's names and service marks and to speak on their behalf. Ignite and Stream assigned these persons the title and authority of "Presidential" and "Executive" Directors to denote their power within Stream, Ignite and the Pyramid. The Presidential and

Executive Directors have fully exercised the powers that Stream and Ignite have authorized and assigned them. The Presidential and Executive Directors carry out the directions of Stream, Ignite and the Pyramid.

295. The Operators (Domhoff, Snyder, Koshakji, Witt, Flores, Tacker, Thies, Dyer and Lucia.) have complete and absolute control over Stream, Ignite and the Pyramid. The Operators are owners or employees of Stream or Ignite, and they are definitely associated or employed by Stream, Ignite and the Pyramid. The Operators conduct and participate in the operation or management of Ignite and the Pyramid through a pattern of racketeering activity, *i.e.*, conducting the affairs and supporting the acts of the pyramid scheme. The Operators, through Stream, Ignite and the Pyramid have authorized the Presidential and Executive Directors to direct their conference calls, websites, web presentations and speeches. The Operators, Stream, Ignite and the Pyramid have authorized the Presidential and Executive Directors to direct and control the marketing of Stream's gas and electricity and Ignite's Services Program.

13. COUNT TWO: THE DEFENDANTS CONSPIRED TO VIOLATE 18 U.S.C. § 1962(C) IN VIOLATION OF 18 U.S.C. § 1962(d).

296. Section 1962(d) makes it "unlawful for any person to conspire to violate any of the provisions of subsection (a), (b), or (c) of this section."

297. Stream, Ignite, the Operators and the Presidential and Executive Directors have participated in a conspiracy to engage in Count One. Each defendant knew about and agreed to facilitate the pyramid scheme.

298. As stated above, each of the defendants has participated in the Pyramid and their participation is necessarily a combination of more than two individuals. In addition, the following "Nonparties" have joined with the defendants to participate in the Pyramid:

a. Presidential Directors

- i. Mark & La Dohn Dean;
- ii. Susan Fisher;
- iii. Mark Florez;
- iv. Greg & Heather McCord;
- v. Terry & Shelba Yancey.

b. Executive Directors

- i. Lynn Almond;
- ii. Bob Aulds;
- iii. Barbara Barkowski;
- iv. Diana L. Bernal;
- v. Ray & Rebecca Bickerstaff;
- vi. Randall & Michelle Blackmon;
- vii. Karen Kaye & Darrell Boeske;
- viii. Wendell & Amy Campbell;
- ix. Domenic Carlucci;
- x. Julie Childers;
- xi. Joel Claybrook;
- xii. Brian & Megan Coleman;
- xiii. Ernest Franklin;
- xiv. Winston Gipson;
- xv. Willa Gipson;
- xvi. Elridge & Dawn Guillory;

xvii. Kevin & Yolanda Harris;
xviii. Ted & Terry Hasson;
xix. Terri Hatch;
xx. Kenny Isbell;
xxi. Charlie & Beth Jones;
xxii. Quincy Jones;
xxiii. Quin Lloyd;
xxiv. Miles & Desiree McKellar;
xxv. Kathy McKinney;
xxvi. Pete & Amy Meadows;
xxvii. Louis & Michelle Miori;
xxviii. Byron & Lisa Montgomery;
xxix. Betts Morren;
xxx. Ryan Morris;
xxxi. Kirk & Lynn Newsom;
xxxii. Christina Patterson
xxxiii. Ernesto & Matilda B. Perez;
xxxiv. Bob Perkins;
xxxv. Tony Perry;
xxxvi. Jamie Piersol;
xxxvii. Carlos & Mixsy Ramirez;
xxxviii. Stefan & Nancy Rodriguez;
xxxix. Debbie Smith;
xl. Jim & Lori Spargur;
xli. Tim & Ranee Sparkman;
xlii. Bob & Melissa Spragins;
xliii. Elbert & Labeebah Thomas;
xliv. Melanie Thurmon;
xlv. Martha Troy;
xlvi. Richard Tuite;
xlvii. David Trujillo;
xlviii. Jim & Fran Will;
xlix. Dr. Terry Wille; and
l. Scott & Amy Williams.

299. As stated above, the defendants' and the Nonparties' creation, support or maintenance of the pyramid scheme is illegal.

300. The defendants and the Nonparties had a meeting of the minds on the object or course of action, specifically to create, support and maintain the pyramid scheme for their financial benefit as evidenced by each defendant's voluntary and knowing participation in the pyramid scheme.

301. Each of the defendants and many of the Nonparties have committed one or more overt acts to achieve or further the unlawful objects and purposes of the pyramid scheme detailed herein.

302. The defendants used false and fraudulent pretenses to deceive persons of ordinary prudence and due care, and made material nondisclosures and concealments of fact and information that were important to understand their pyramid scheme. The defendants conducted their affairs unlawfully, intentionally, willfully and with intent to defraud, for their own financial gain and benefit and for the financial gain and benefit of others, all to the detriment of Betts and others that purchased the Services Program.

14. PRAYER FOR RELIEF.

Betts and the plaintiff class request the following relief:

- a. Certification of the class;
- b. A judgment against the defendants;
- c. Damages in the amount of the financial losses incurred by Betts and the class as a result of defendants' conduct and for injury to their business and property, all as a result of defendants' violations of 18 U.S.C. § 1962 (c) and (d) and that such sum be trebled in accordance with 18 U.S.C. § 1964(c);

- d. Temporary and permanent injunctive relief enjoining the defendants from further unfair, unlawful, fraudulent and/or deceptive acts, including, but not limited to, supporting the Pyramid;
- e. The costs of investigation and litigation reasonably incurred, as well as attorneys' fees in accordance with 18 U.S.C. § 1964(c).
- f. For such other damages, relief and pre- and post-judgment interest as the Court may deem just and proper.

15. DEMAND FOR A JURY TRIAL.

Betts demands a jury trial.

Filed this 28th day of October 2009.

Respectfully submitted,

**BRINSON, ASKEW, BERRY, SEIGLER,
RICHARDSON & DAVIS, LLP**

By:



Robert M. Brinson

Georgia Bar No. 082900

Email: bbrinson@brinson-askew.com

J. Anderson Davis

Georgia Bar No. 211077

adavis@brinson-askew.com

Samuel L. Lucas

Georgia Bar No. 142305

slucas@brinson-askew.com

Post Office Box 5007
Rome, GA 30162-5007
Telephone: 706-291-8853
Facsimile: 706-234-3574

To appear *pro hoc vice*:

The Clearman Law Firm PLLC

Scott M. Clearman
Texas State Bar No. 04350090
Email: scott@clearmanlaw.com

Brian D. Walsh
Texas State Bar No. 24037665
Email: brian@clearmanlaw.com

815 Walker, Suite 1040
Houston, Texas 77002
Telephone: (713) 223-7070
Facsimile: (713) 223-7071